



Citation: *GS v Canada Employment Insurance Commission*, 2023 SST 1354

**Social Security Tribunal of Canada  
General Division – Employment Insurance Section**

## **Decision**

**Appellant:** G. S.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (559802) dated December 12, 2022 (issued by Service Canada)

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**Tribunal member:** Linda Bell

**Type of hearing:** Written

**Decision date:** May 23, 2023

**File number:** GE-22-4109

## **Decision**

[1] G. S. is the Appellant. I am dismissing his appeal.

[2] The Appellant hasn't shown he meets the requirements to qualify for Employment Insurance (EI) benefits for self-employed persons.

## **Overview**

[3] The Appellant applied for compassionate care benefits for self-employed persons. The Commission decided the Appellant didn't qualify for EI benefits.

[4] I have to decide whether the Appellant has proven he meets the conditions to qualify for EI benefits for self-employed persons.

[5] The Commission says the Appellant doesn't qualify for benefits as of November 2, 2022, or August 7, 2022. This is because he needs to show he had the requirement amount of self-employment earnings to qualify for benefits for self-employed claimants.

[6] The Appellant disagrees with the Commission. He appeals to the Social Security Tribunal (Tribunal).

## **Matter I have to consider first**

### **Format of Hearing**

[7] The hearing proceeded in writing, as requested by the Appellant.

[8] On April 11, 2023, I wrote to the Appellant and explained that if he wished to submit any further statements or documents, in response to the Commission's documents (GD3 and GD4) he must do so by May 12, 2023. I also explained that if he wished to change his hearing to a teleconference or videoconference, he must tell the Tribunal no later than May 12, 2023.

[9] There is nothing on file that suggests the Appellant tried to submit additional information or contact the Tribunal to request a different form of hearing. Nor is there

any indication that the Appellant requested more time to make submissions. Accordingly, the hearing proceeded based on the information on file.

## Issues

[10] Does the Appellant qualify for EI benefits for self-employed persons as of October 23, 2022, or August 7, 2022?

## Analysis

### How to qualify for EI benefits for self-employed persons

[11] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.<sup>1</sup> The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he qualifies for benefits.

[12] To qualify for EI benefits for self-employed persons, the Appellant must show he meets all four criteria set out below.<sup>2</sup>

[13] (a) At least 12 months have expired since the day, on which he entered into an agreement with the Commission;<sup>3</sup>

[14] (b) the agreement has not been terminated or deemed to have been terminated;

[15] (c) he has had an interruption of earnings from self-employment; and

[16] (d) he has had during his qualifying period an amount of self-employed earnings that is equal to or greater than the amounts set out in paragraph 152.07(1)(d) of the Act.

[17] In this case, the Appellant doesn't meet the basic qualifying requirements to establish a claim for EI benefits for self-employed persons, as of October 23, 2022, or August 7, 2022. This is because to establish a claim for self-employed persons as of October 23, 2022, he must show he earned \$8,092.00 in self-employment earnings

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<sup>1</sup> See section 48 of the *Employment Insurance Act* (Act).

<sup>2</sup> See section 152.07(1) of the Act.

<sup>3</sup> See section 152.02(1) of the Act.

from January 1, 2021, to December 31, 2021. The Appellant has \$0 earnings in 2021, based on the Canada Revenue Agency (CRA) assessment.

[18] The Commission submits the Appellant also doesn't qualify for benefits as of August 7, 2022. The Appellant requires \$5,289.00 in self-employment earnings in tax year 2021, to establish a claim for benefits on August 7, 2022. According to Canada Revenue Agency, he has \$0.00 self-employment earnings in 2021.

[19] The Commission also considered the Appellant had some hours of insured employment when he worked for X from November 11, 2021, to November 22, 2021. But he didn't have enough insurable hours (600 hours) to establish a claim for compassionate care benefits.

[20] There is no dispute that the Appellant was self-employed. Nor is there any dispute that he entered into an agreement with the Commission to participate in the EI program for self-employed persons as of September 28, 2020.

[21] I understand from the Appellant's appeal that he is arguing it shouldn't matter how much money he made in his self-employment. He should be paid benefits because he needs them.

[22] I don't have the authority to waive or change a statutory requirement to qualify for EI benefits for Self-Employed Persons.<sup>4</sup> Nor do I have the authority to alter the terms of the contract the Appellant entered into with the Commission.

[23] Having the required amount of self-employment earnings, among other requirements, is a condition to qualify for EI benefits for self-employed persons. The Appellant doesn't meet this requirement to qualify for compassionate care benefits.

[24] I sympathize with the Appellant given the circumstances he presented. But my decision is not based on fairness or financial hardship. Instead, my decision is based on the facts before me and the application of the law. There are no exceptions and no

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<sup>4</sup> See *Wegener v. Canada (Attorney General)*, 2011 FC 137.

room for discretion. I can't interpret or rewrite the EI Act in a manner that is contrary to its plain meaning, even in the interest of compassion.<sup>5</sup>

## **Conclusion**

[25] The Appellant doesn't qualify for EI compassionate care benefits.

[26] The appeal is dismissed.

Linda Bell

Member, General Division – Employment Insurance Section

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<sup>5</sup> See *Canada (Attorney General) v Knee*, 2011 FCA 301.