



Citation: *EH v Canada Employment Insurance Commission*, 2023 SST 1397

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

Decision

Appellant: E. H.
Representative: S. H.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (569373) dated February 23, 2023
(issued by Service Canada)

Tribunal member: Sylvie Charron

Type of hearing: Teleconference

Hearing date: June 6, 2023

Hearing participants: Appellant
Appellant's representative

Decision date: August 4, 2023

File number: GE-23-820

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.

[2] The Appellant hasn't shown that he has worked enough hours to qualify for Employment Insurance (EI) benefits.

Overview

[3] The Appellant applied for EI benefits, but the Canada Employment Insurance Commission (Commission) decided that the Appellant hadn't worked enough hours to qualify.¹

[4] I have to decide whether the Appellant has worked enough hours to qualify for EI benefits.

[5] The Commission says that the Appellant doesn't have enough hours because he needs 700 hours but has only 488.

[6] The Appellant disagrees and says that he feels he qualifies for EI benefits and is facing financial difficulties.²

[7] The Commission says that according to the table in ss. 7(2) of the Act, the minimum requirement for the Appellant to qualify for EI benefits is 700 hours.

[8] The Commission says that it cannot change the Act.

Issue

[9] Has the Appellant worked enough hours to qualify for EI benefits?

¹ Section 7 of the *Employment Insurance Act* (EI Act) says that the hours worked have to be "hours of insurable employment." In this decision, when I use "hours," I am referring to "hours of insurable employment."

² GD3-30 to 32

Analysis

How to qualify for benefits

[10] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.³ 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.

[11] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”⁴

[12] The number of hours depends on the unemployment rate in your region.⁵

The Appellant’s region and regional rate of unemployment

[13] The Commission decided that the Appellant’s region was the Ottawa Capital region and that the regional rate of unemployment at the time was 4.2%.

[14] The Appellant’s qualifying period is from November 14, 2021 to November 13, 2022.

[15] This means that the Appellant would need to have worked at least 700 hours in his qualifying period to qualify for EI benefits.⁶

[16] The Appellant disagrees with the Commission’s decision about the regional rate of unemployment that applies to him. The Appellant says that the Commission is wrong because the Appellant has applied in past years with about the same number of insurable hours and did receive EI benefits.

[17] I find that given the Appellant’s residential address and the number of hours indicated on his Records of Employment, the Commission’s decision is correct.

³ See section 48 of the EI Act.

⁴ See section 7 of the EI Act.

⁵ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations*.

⁶ Section 7 of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

The Appellant's qualifying period

[18] As noted above, the hours counted are the ones that the Appellant worked during his qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁷

[19] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different timeframe. Your benefit period is the time when you can receive EI benefits.

[20] The Commission decided that the Appellant's qualifying period was the usual 52 weeks. It determined that the Appellant's qualifying period went from November 14 2021 to November 13 2022.

[21] There is no evidence that makes me doubt the Commission's decision on the qualifying period. The Appellant did not object to this, so I accept it as a proven fact.

The hours the Appellant worked

[22] The Commission decided that the Appellant had worked 488 hours during his qualifying period.

[23] The Appellant doesn't dispute this, and there is no evidence that makes me doubt it. So, I accept it as fact.

[24] The Appellant disputes the fact that this is not enough to qualify for benefits. As explained above, this is what the Act and the Regulation say for the period under examination and for the area where the Appellant lives.

The Appellant's submissions

[25] At the hearing, the Appellant's Representative submitted that the Appellant is caught in "postal code politics", in that the area where the Appellant resides is very large.

⁷ See section 8 of the EI Act.

[26] The Representative also says that there is no way to know how the statistics that define the unemployment rate are generated and the Commission does not appear to defend its position.

[27] As well, the point was made that the Appellant does not chose his postal code, as he lives at home with his parents. The Appellant suffers from ADHD and tries very hard to make a living. It is fundamentally unfair to deny him EI benefits.

[28] While I agree that in some instances it would be helpful for the Commission to appear, I find that this is not one of them. The Act is clear that a certain number of insurable hours are required based on the usual residence of the Appellant. In the Appellant's case, it is clear that the Appellant did not have 700 hours, but only 488. The Commission has no discretion to change the numbers, and neither have I.

[29] The National Capital Region is a high employment area, so its requirements for 700 insurable hours is higher than what would be found in high unemployment areas. This is meant to recognize that workers in high unemployment areas will have fewer opportunities to find work. The numbers are adjusted periodically with statistics on unemployment gathered by Statistics Canada.

[30] I also find that it is commendable that the Appellant seeks to work and earn a living despite facing challenges.

So, has the Appellant worked enough hours to qualify for EI benefits?

[31] I find that the Appellant has not proven that he has enough hours to qualify for benefits because he needs 700 hours but has worked 488 hours.

[32] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive benefits. In this case, the Appellant doesn't meet the requirements, so he doesn't qualify for benefits. While I sympathize with the Appellant's situation, I can't change the law.⁸

⁸ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.

Conclusion

[33] The Appellant doesn't have enough hours to qualify for benefits.

[34] This means that the appeal is dismissed.

Sylvie Charron

Member, General Division – Employment Insurance Section