



Citation: *FJ v Canada Employment Insurance Commission*, 2023 SST 1679

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

Decision

Appellant: F. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (584112) dated May 9, 2023 (issued by Service Canada)

Tribunal member: Jean Yves Bastien

Type of hearing: In person

Hearing date: August 25, 2023

Hearing participant: Appellant

Decision date: August 29, 2023

File number: GE-23-1515

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 510.

[6] The Appellant disagrees and says that the Commission website says that he needs between 420 and 700 hours to qualify for benefits. The Appellant argues that the 510 hours he has worked falls within the range of 420 to 700, and therefore, he qualifies for benefits.

Issue

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

¹ Section 7 of the *Employment Insurance Act (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."

Analysis

How to qualify for benefits

[8] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.² 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.

[9] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”³

[10] The number of hours depends on the unemployment rate in your region.⁴

The Appellant’s region and regional rate of unemployment

[11] The Commission decided that the Appellant’s region was Central Quebec and that the regional rate of unemployment at the time was 4.8%.⁵

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

[13] The Appellant agrees with the Commission’s decision about which region he lives in, so I accept this as fact.

The Appellant doesn’t agree with the Commission

[14] The Appellant disagrees with the Commission’s decision about which regional rate of unemployment applies to him. The Appellant says that the Commission is wrong for the following reasons:

² See section 48 of the *Act*.

³ See section 7 of the *Act*.

⁴ See section 7(2)(b) of the *Act* and section 17 of the *Employment Insurance Regulations (Regulations)*

⁵ See pages GD3-18 and GD3-19 of the appeal record.

⁶ Section 7 of the *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 overall rate of unemployment for the province of Quebec is 7%.⁷ The Appellant says that he has no idea why the Commission divides the province into different zones.
- Québec is one entire region. It is discriminatory to say that if you live in Victoriaville, your required number of hours is more than the required number of hours in, for example, Gaspé.
- It is discrimination to differentiate between two different individuals who pay the same amount of taxes and EI premiums, when the only difference is that they live in two different areas of the province.
- The Appellant is not confident of the regional rate of unemployment used by the Commission as he has no way of verifying that figure.
- The Appellant believes that once an application for benefits is received, the Commission then decides how many hours are required to qualify and that this process can be misused to improperly deny claimants benefits.
- The Appellant argues that the Commission's website says that he needs between 420 and 700 hours to qualify for benefits. The Appellant says that he has 510 hours which lies in the range between 420 and 700 and therefore he qualifies for benefits.
- The Appellant says that he deserves to be paid benefits as he has paid EI insurance premiums faithfully during the time that he was working.

⁷ Even if an unemployment rate of 7% were assumed, the Appellant would still not qualify for benefits as 630 hours are required and the Appellant has 510.

The Appellant's qualifying period

[15] 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 a benefit period would start.⁸

[16] A **benefit period** isn't the same thing as a **qualifying period**. It is a different timeframe. A benefit period is the time when a claimant can receive EI benefits.

[17] The Commission decided that the Appellant's qualifying period was the usual 52 weeks. It determined that the Appellant's qualifying period went from February 27, 2022, to February 25, 2023. The Appellant agrees with the Commission

The Appellant agrees with the Commission's decision about his qualifying period.

[18] There is no evidence that makes me doubt the Commission's decision. So, I accept as fact that the Appellant's qualifying period is from February 27, 2022, to February 25, 2023.

The hours the Appellant worked

The Appellant agrees with the Commission

[19] The Commission decided that the Appellant had worked 510 hours during his qualifying period.

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

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

[21] I find that the Appellant hasn't proven that he has enough hours to qualify for benefits because he needs 700 hours, but has worked 510 hours.

[22] The Appellant's main argument is that the regional rate of unemployment, and therefore, the required number of insurable hours needed to qualify for benefits is wrong

⁸ See section 8 of the *Act*.

because it discriminates between persons living in different areas of the province. The Appellant is not confident that the Commission is using the proper rates of unemployment in setting its requirements.

[23] But this is not the way the EI system works. Section 7. of the *Employment Insurance Act (Act)* is quite clear. **The number of hours needed to qualify for benefits is directly linked to the regional rate of unemployment.**⁹ Because the rate of unemployment varies from region to region in Québec, so does the required number of insurable hours needed to qualify. It is not discrimination to require claimants living in different regions of the province to have different amounts of insurable hours to qualify if their regional rates of unemployment are different. Claimants living in all regions of Canada, with the same rate of unemployment, all need the same number of insurable hours to qualify for benefits. This is laid out in Section 7 of the *Act* which is the law, and this Tribunal must follow the law.

[24] The Appellant said that he wasn't confident of the numbers the Commission used to determine the regional unemployment rate. He said that he could not verify the rate the Commission was using. He was suspicious because he argued that the overall rate in Québec was 7% while the regional rate the Commission was using is 4.8%. The Appellant did not cite a source for the figure of 7%.

[25] The Commission uses an independent, outside agency, Statistics Canada to provide them with regional rates of unemployment.¹⁰ Statistics Canada says that the unemployment rate in the Central Region of Québec in the period February 12, 2023, to March 11, 2023, was 4.8%.¹⁰ Therefore, I accept this independent figure of 4.8% as fact.

[26] These regional unemployment rates are set in advance and are not subject to interpretation or manipulation by Commission staff to approve or deny any particular claimant's application for benefits.

⁹ See the table at Section 7(2) of the *Act*.

¹⁰ See footnote 1. To the *Unemployment Rate and Benefit Rate* page at page GD3-19 of the appeal record.

[27] The Appellant misreads the Commission's website when he argues that he qualifies for benefits, because the 510 insurable hours that he has, falls in the range between the 420 and 700 hours stated on the website. This is incorrect.

[28] The Commission website has a section called "*You need to have worked enough hours to be eligible*". Here it says that: "**Based on the unemployment rate in your area, you'll need between 420 and 700 hours of insurable employment during the qualifying period to qualify for regular benefits.**"¹¹

[29] The Appellant has not considered that the unemployment rate in his area of Central Québec is 4.8%, and the law requires him to have 700 insurable hours to qualify for benefits.¹²

[30] The Commission argues that "the claimant may have misunderstood the information read on the internet, but this does not exempt him from the application of the Act. The Commission submits that the jurisprudence supports its decision. The Federal Court of Appeal confirmed the principle that the requirements under subsection 7(2) of the Act do not allow any discrepancy and provide no discretion."¹³

[31] The Appellant argues that he contributed to the EI plan during the period that he was working, and he feels that he deserves a return of premiums. I do not accept the Appellant's argument he is entitled to benefits because he pays employment insurance premiums. Even if the Appellant made contributions to the employment insurance program, this does not automatically entitle him to receive benefits during a period of unemployment. A claimant must meet all the requirements of the *Act* to qualify for those benefits¹⁴

¹¹ See the Commission's website at: <https://www.canada.ca/en/services/benefits/ei/ei-regular-benefit/eligibility.html> , See the section entitled *You need to have worked enough hours to be eligible*. Emphasis mine.

¹² See the table at Section 7(2) of the *Act*.

¹³ See page GD4-3 of the appeal file citing: *Canada (AG) v. Lévesque*, 2001 FCA 304

¹⁴ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.

[32] 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.¹⁵

Conclusion

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

[34] This means that the appeal is dismissed.

Jean Yves Bastien
Member, General Division – Employment Insurance Section

¹⁵ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.