



Citation: *ZW v Canada Employment Insurance Commission*, 2023 SST 1670

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: Z. W.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (577845) dated April 5, 2023 (issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: Videoconference

Hearing date: August 1, 2023

Hearing participant: Appellant

Decision date: August 4, 2023

File number: GE-23-1253

Decision

[1] The appeal is dismissed. The Appellant can't get benefits get more than 43 weeks of extended parental benefits.

Overview

[2] The Appellant works as a pharmacy assistant. Due to illness from fertility treatments and pregnancy, she applied twice for Employment Insurance (EI) sickness benefits. After the second period of sickness benefits, the Appellant got maternity benefits. She had applied for standard parental benefits, but later asked to get extended parental benefits.

[3] The Commission decided that it could only pay the Appellant up to the end of her benefit period on June 3, 2023. This means it could only pay the Appellant 43 weeks of extended parental benefits.

[4] The Commission says it extended the Appellant's benefit period for the maximum applicable 41 weeks, so she can't get 61 weeks of extended parental benefits.

[5] The Appellant says she called Service Canada when she noticed that the end date of her claim was not what she was told it would be. She says she was told the system would update these issues. She also says the Commission should have started a new claim for benefits in March 2022 when she applied for sickness benefits.

Issue

[6] Can the Appellant get more than 43 weeks of extended parental benefits?

Analysis

[7] A claimant can get benefits for each week in a benefit period where they don't work.¹ A benefit period is the period where they get those benefits. Usually, it's 52

¹ See section 12(1), *Employment Insurance Act* (Act).

weeks long.² But if a claimant claims 61 weeks of parental benefits, the benefit period is extended.³

[8] A claimant can get 15 weeks of maternity benefits.⁴ They can also get 35 or 61 weeks of parental benefits.⁵ For parental benefits, they get either 33% or 55% of their weekly insurable earnings. This depends on their choice of standard or extended parental benefits.⁶

[9] Sometimes, a claimant gets more than one kind of special benefits in the same benefit period. Special benefits include sickness, maternity, and parental benefits. When this happens, the benefit period is extended.⁷

Is the Appellant entitled to more than 43 weeks of extended parental benefits?

[10] No, the Appellant isn't entitled to more than 43 weeks of extended parental benefits.

[11] The Appellant worked as pharmacy assistant. She went through fertility treatments to get pregnant. To help with this process, her doctor suggested that she take sick leave from her job. The Appellant did so and applied for and received nine weeks of EI sickness benefits.

[12] When she was eight months pregnant, the Appellant was unable to work. She testified that she started her maternity leave at that time. She added that she knew she had enough hours to apply for benefits, but she called Service Canada. The Appellant testified that the Service Canada officer told her she could continue her sickness benefits, and then her claim would automatically be switched to maternity and then parental benefits.

² See section 10(2), Act.

³ See section 10(13.01) of the Act.

⁴ See section 12(3)(a), Act.

⁵ See section 12(3)(b), Act.

⁶ See section 14(1) of the Act.

⁷ See section 12(6) of the Act.

[13] The Appellant originally chose the standard option for parental benefits. But she and her husband decided that it would be best for her to spend more time with her new baby. So, she called Service Canada to change to the extended option. The Appellant testified that the officer told her that her last date to receive parental benefits under the extended option would be in October 2023. She said if the officer had explained what would happen, she would not have made the change.

[14] The Appellant confirmed at the hearing that she first got nine week of sickness benefits. She confirmed that later, she got six more weeks of sickness benefits, followed by 15 weeks of maternity benefits and 43 weeks of extended parental benefits up to June 3, 2023.

[15] The Appellant's husband testified at the hearing. He and the Appellant questioned why the Commission didn't start a new claim for the Appellant when she started her maternity leave since she had enough hours to start a new claim.

[16] The Commission says it discussed starting a new claim in March 2022 with the Appellant. It says the Appellant agreed that a reduced benefit rate on a new claim would not have been to her advantage. I asked the Appellant about this. She said nothing like this happened. She insisted that every time she called Service Canada, she was told she would get 61 weeks of extended parental benefits.

[17] It's unfortunate that there appears to be a misunderstanding about having the Appellant start a new benefit period. Notes in the Commission's reconsideration file refer to a difference in the weekly benefit rate from \$564 to \$341 if the Appellant had started a new benefit period. And the extended parental benefit rate would have been even lower than \$341. But both the Appellant and her witness spoke of the value of time she would have had with her new baby.

[18] It appears that the Appellant could have started a new claim for benefits. This would have allowed her to get the six weeks of sickness benefits, and the 15 and 61 weeks of maternity and extended parental benefits she asked for. But this isn't the

issue before me. My role is to decide if, within the existing claim, the Appellant is entitled to more than 43 weeks of extended parental benefits.

[19] The Commission says the Appellant's benefit period started on August 22, 2021. It extended her benefit period by 15 weeks to account for the 15 weeks where she got sickness benefits. Then, because the Appellant chose to get extended parental benefits, the Commission extended her benefit period for another 26 weeks. With both extensions, it says her benefit period ended on June 3, 2023.

[20] The Appellant first applied for sickness benefits on September 20, 2021. I find that the Commission correctly decided that the Appellant's benefit period started on August 22, 2021. This is the last day she was paid for as noted on her record of employment. The Appellant's claim for benefits was renewed on March 23, 2022, with an application for sickness benefits, to be followed by maternity and extended parental benefits.

[21] Based on the above, I find that the Commission properly extended the Appellant's benefit period by 15 weeks for the time in her benefit period when she got sickness benefits, and 26 weeks because she chose to receive extended parental benefits. I find that this means that her benefit period ends on June 3, 2023, and that the Commission can't pay her benefits beyond this date.

[22] The Appellant responded to the Commission's submission that it can't pay her extended parental benefits beyond June 3, 2023. She said the problem is that the Commission never accepted the mistakes it made. She said when she called Service Canada, she was told the end date of her claim would be fixed, namely to October 2023. She said that because of the mistakes, she has suffered. The Appellant had to return to work early and she had to put her son in daycare early.

[23] The Appellant's witness said the date the benefits end really matters. He said he and his wife had to plan for when the Appellant would return to work, and they had to plan for putting their son in daycare. He added that someone should have to answer for why they have had to suffer.

[24] Again, it's unfortunate that the Appellant didn't get sufficient accurate information to help her make informed decisions throughout her claims. She testified that she and her husband aren't government employees, so she trusted the officers she spoke to. This is even more notable since the Appellant's claims, taken together, were not routine.

[25] If Service Canada provides a service to claimants where they can get information to help them make decisions about claims for benefits, it should be reliable. Claimants can experience real negative effects if they are given inaccurate information. I would encourage the Commission to contact the Appellant if it is still possible to consider starting a new claim for benefits from March 2022.

[26] I find that the Commission can only pay the Appellant extended parental benefits up to the end of her benefit period on June 3, 2023. This means she can get only 43 weeks of extended parental benefits. While I sympathize with the Appellant's situation, I can't change the law.⁸

Conclusion

[27] The appeal is dismissed. This means the Appellant can only get 43 weeks of extended parental benefits.

Audrey Mitchell

Member, General Division – Employment Insurance Section

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