



Citation: *LS v Canada Employment Insurance Commission*, 2023 SST 1777

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: L. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (567207) dated February 2, 2023 (issued by Service Canada)

Tribunal member: Gary Conrad

Type of hearing: Teleconference

Hearing date: June 7, 2023

Hearing participant: Appellant

Decision date: June 9, 2023

File number: GE-23-686

Decision

[1] The appeal is dismissed. The Appellant cannot receive more weeks of sickness benefits because she has already received the maximum 15 weeks allowed under the law.

[2] While the *Employment Insurance Act* was amended to allow for the payment of 26 weeks of sickness benefits, this change did not come into force until December 18, 2022, and it is not retroactive. The change would only apply to benefit periods starting on December 18, 2022, or later. The Appellant's benefit period started on June 26, 2022, so the change will not apply to her claim.

Overview

[3] The Appellant applied for sickness benefits and was paid 15 weeks of sickness benefits.

[4] She then contacted the Canada Employment Insurance Commission (Commission) and asked for her sickness benefits to be converted to regular benefits.

[5] The Commission decided they could not pay the Appellant regular benefits because she was still sick, so not available for work.

[6] The Appellant then filed a reconsideration request asking the Commission to grant her additional weeks of sickness benefits because Parliament has created legislation that would extend sickness benefits to 26 weeks and she was still sick.

[7] The Commission spoke with the Appellant and told her that they could not pay her any more weeks of sickness benefits because 15 is the maximum she can receive according to the law. The Commission told the Appellant that the changes in the *Employment Insurance Act* to allow for the payment of 26 weeks of sickness benefits did not come into force until December 2022 and is not retroactive, so will not apply to the Appellant's claim.

Issue

[8] Can the Appellant be paid more weeks of sickness benefits?

Analysis

Can the Appellant be paid more weeks of sickness benefits?

[9] I accept as fact that the Appellant has already been paid 15 weeks of sickness benefits, as she agrees as such, and I see nothing to suggest otherwise.

[10] The law says that the maximum number of weeks of sickness benefits that can be paid is 15.¹

[11] The Appellant is correct that Parliament did amend the *Employment Insurance Act* so that sickness benefits could be paid for 26 weeks,² but that only applies to claims with a benefit period starting on or after December 18, 2022;³ the change is not retroactive.

[12] I accept that the Appellant was still very sick as of December 18, 2022, but as her benefit period started on June 26, 2022, the increase to the number of weeks of sickness benefits a person can collect does not apply to her claim because it is not retroactive. This means she cannot get more weeks of sickness benefits because she has already got the maximum 15 allowed under the law.⁴

[13] If I could, I would give the Appellant more weeks of sickness benefits. I have no doubts the Appellant is still sick and is suffering financially and needs help. If there was

¹ See section 12(3)(c) of the *Employment Insurance Act* in force at the time of the Appellant's claim.

² See section 307(2) of the *Budget Implementation Act, 2021, No. 1* which says that up to 26 weeks of sickness benefits can be paid. https://laws.justice.gc.ca/eng/AnnualStatutes/2021_23/page-26.html#h-113

³ See Order in Council No. 2022-1218 which says that Section 307(2) of the *Budget Implementation Act, 2021, No. 1* comes into effect starting December 18, 2022. This means that it is not retroactive and only effects claims starting on that day, or after it. [Orders In Council - Search \(canada.ca\)](https://www.canada.ca/en/gov/department-of-civil-service/Orders-In-Council-Search)

⁴ See GD03-34 which shows her 15 weeks of sickness payments from June 26, 2022 to October 15, 2022.

something I could do to assist her under the law, I would, but sadly, there is nothing I can do, as I cannot change the law or ignore its plain meaning.⁵

[14] One final point I would make is that the Commission originally denied the Appellant's request to convert her sickness benefits to regular benefits, but the Appellant did not ask for a reconsideration of this issue.⁶

[15] It is possible, if the Appellant's chooses to do so, for her to ask the Commission to reconsider that issue (whether she can get regular benefits after her sickness benefits ended).⁷ If she gets a reconsideration decision on that issue she does not like, it is also possible to appeal that to the Social Security Tribunal.

Conclusion

[16] The appeal is dismissed.

[17] Unfortunately, the Appellant cannot receive more weeks of sickness benefits. She has received the maximum 15 weeks allowed under the law, and the change to the law that allows sickness benefits to be paid up to 26 weeks is not retroactive, so does not apply to the Appellant's claim.

[18] Sadly, there is nothing I can do for her.

Gary Conrad

Member, General Division – Employment Insurance Section

⁵ *Canada (Attorney General) v Knee*, 2011 FCA 301

⁶ GD03-32

⁷ A note for the Appellant that if she does choose to pursue this option, it is possible the Commission may decide her request for reconsideration on the issue of converting her sickness to regular benefits is late, and she would have to deal with that first.