



Citation: *HS v Canada Employment Insurance Commission*, 2023 SST 1882

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: H. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (614014) dated September 7, 2023 (issued by Service Canada)

Tribunal member: Kristen Thompson

Type of hearing: Teleconference

Hearing date: November 14, 2023

Hearing participant: Appellant

Decision date: November 20, 2023

File number: GE-23-2628

Decision

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

[2] The Appellant was outside Canada. He doesn't meet one of the exceptions. He is disentitled to Employment Insurance (EI) benefits.

Overview

[3] The Appellant applied for EI benefits.

[4] The Commission decided that he was disentitled to benefits, from June 12 to 16, 2023, because he was outside Canada, doesn't meet one of the exceptions, and failed to prove his availability for work.

[5] The Appellant agrees that he was outside Canada. He says that, as he had a job lined up, this rule isn't applicable to his situation.

Issue

[6] Is the Appellant disentitled to benefits while outside Canada from June 12 to 16, 2023?

[7] If not, has the Appellant shown he was available, from June 12 to 16, 2023?

Analysis

[8] An appellant is disentitled to receive EI benefits when outside Canada unless he meets one of the prescribed reasons and he is available for work.¹

[9] The Commission says that the Appellant is disentitled to benefits, from June 12 to 16, 2023, because he was outside Canada, doesn't meet one of the prescribed reasons, and wasn't available for work.

¹ See subsection 37(b) of the *Employment Insurance Act* (Act) and section 55 of the *Employment Insurance Regulations* (Regulation).

[10] The Appellant agrees that he was outside Canada from June 12 to 16, 2023. He agrees that he doesn't meet one of the prescribed reasons. But he says that, as he had a job lined up, he should be entitled to benefits while outside Canada.

[11] The Appellant says that he was laid off from his previous employer on May 18, 2023. He says that he attended at 3 interviews in less than 2-weeks.

[12] The Appellant says that he was offered a job on June 8, 2023.² He accepted the position.

[13] The Appellant says that his new job started on June 19, 2023. He says that, as the employer needed time to prepare, he couldn't have started the job sooner.

[14] The Appellant says that he was outside Canada to propose to his girlfriend. He says that they are now married.

[15] The Appellant says that, while outside Canada, he had access to the internet, allowing him to explore any potential job opportunities that may have arisen.

[16] The Federal Court of Appeal (Court) says that adjudicators are neither allowed to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.³ I'm bound by this decision and I'm following it.

[17] I find that the Appellant is disentitled to benefits, as he was outside Canada and doesn't meet one of the prescribed reasons. The Appellant and Commission agree that he was outside Canada and doesn't meet one of the prescribed reasons. I'm bound by the legislation and caselaw of the Court and, as such, can't decide that the rule isn't applicable to the Appellant's situation. As he doesn't meet one of the prescribed reasons, its unnecessary to determine whether he was also available for work.

² See GD3-20.

³ See *Canada (Attorney General) v Knee*, 2011 FCA 301.

Conclusion

[18] The appeal is dismissed.

[19] The Appellant was outside Canada from June 12 to 16, 2023. He is disentitled to benefits during this period.

Kristen Thompson
Member, General Division – Employment Insurance Section