



Citation: *MD v Canada Employment Insurance Commission*, 2023 SST 1939

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

## Decision

**Appellant:** M. D.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (623844) dated November 7, 2023 (issued by Service Canada)

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**Tribunal member:** Catherine Shaw

**Type of hearing:** Videoconference

**Hearing date:** December 14, 2023

**Hearing participant:** Appellant

**Decision date:** December 18, 2023

**File number:** GE-23-3335

## Decision

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

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

## Overview

[3] The Appellant works as an Early Childhood Educator. She applied for EI benefits in June 2022, when the school year ended. She was also pregnant and due to give birth in December 2022. However, she had to stop working early due to complications with her pregnancy. She stopped working in November and applied for EI maternity and parental benefits.

[4] The Canada Employment Insurance Commission (Commission) renewed her claim for benefits. Then, in July 2023 her benefits stopped. She applied for EI benefits again so she could be paid the rest of her parental benefits. But, the Canada Employment Insurance Commission (Commission) decided that the Appellant hadn't worked enough hours to qualify.<sup>1</sup>

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

[6] The Commission says that the Appellant doesn't have enough hours because she needs 600 or more hours, but has only 504.

[7] The Appellant disagrees. She had to stop working early because of complications with her pregnancy. And she only works during the school year because of her job. She couldn't work enough hours for these reasons.

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<sup>1</sup> Section 7 of the *Employment Insurance Act* (Act) and section 93 of the *Employment Insurance Regulations* (Regulations) say 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."

## Issue

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

## Analysis

### How to qualify for benefits

[9] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.<sup>2</sup> The Appellant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she qualifies for benefits.

[10] To qualify, you need to have worked enough hours within a certain time frame. This time frame is called the “qualifying period.”<sup>3</sup>

[11] In general, the number of hours depends on the unemployment rate in your region.<sup>4</sup> But, the law provides another way to qualify for special benefits, including parental benefits.

[12] If you want special benefits, you can qualify if you have 600 or more hours.<sup>5</sup> But, this is only if you don’t qualify under the general rule.<sup>6</sup>

[13] The Commission says the Appellant doesn’t qualify under the general rule. She would need 700 hours to qualify under the general rule. The evidence supports this. So, I find the Appellant doesn’t qualify under the general rule.

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<sup>2</sup> See section 48 of the Act.

<sup>3</sup> See section 7 of the Act and section 93 of the Regulations.

<sup>4</sup> See section 7(2)(b) of the Act and section 17 of the Regulations.

<sup>5</sup> See section 93(1) of the Regulations. The hours need to be hours of insurable employment.

<sup>6</sup> Section 7 of the Act sets out the general rule.

## **The Appellant's qualifying period**

[14] As noted above, the hours counted are the ones the Appellant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.<sup>7</sup>

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

[16] The Commission decided that the Appellant's qualifying period was the usual 52 weeks. It determined that the Appellant's qualifying period went from July 3, 2022, to July 1, 2023.

[17] Your current qualifying period can't overlap with an earlier qualifying period. The Appellant's qualifying period would overlap with her earlier qualifying period if it went back to a time before July 3, 2022. So, she can't have her qualifying period extended.

[18] The Appellant doesn't dispute with the Commission's decision about her qualifying period. 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 July 3, 2022, to July 1, 2023.

## **The hours the Appellant worked**

[19] The Commission decided that the Appellant had worked 504 hours during her 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 benefits?**

[21] I find that the Appellant hasn't proven that she has enough hours to qualify for EI parental benefits because she needs 600 or more hours, but has 504 hours.

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<sup>7</sup> See section 8 of the Act.

[22] I understand the Appellant will be disappointed by this decision. In dealing with cases where the resulting decision may seem unfair on its face, the Federal Court of Appeal has said:

...rigid rules are always apt to give rise to some harsh results that appear to be at odds with the objectives of the statutory scheme. However, tempting as it may be in such cases (and this may well be one), adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.<sup>8</sup>

[23] 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 she doesn't qualify for benefits. While I sympathize with the Appellant's situation, I can't change the law.<sup>9</sup>

## **Conclusion**

[24] The Appellant doesn't have enough hours to qualify for EI parental benefits.

[25] This means that the appeal is dismissed.

Catherine Shaw  
Member, General Division – Employment Insurance Section

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<sup>8</sup> See *Canada (Attorney General) v Knee*, 2011 FCA 301 at para 9.

<sup>9</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.