



Citation: *JA v Canada Employment Insurance Commission*, 2024 SST 243

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

# **Decision**

**Appellant:** J. A.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (630941) dated November 24, 2023 (issued by Service Canada)

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**Tribunal member:** Catherine Shaw

**Type of hearing:** Teleconference

**Hearing date:** January 9, 2024

**Hearing participant:** Appellant

**Decision date:** January 9, 2024

**File number:** GE-23-3426

## 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.<sup>1</sup>

[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 498.

[6] The Appellant disagrees and says that he has been trying very hard to find work without success. He says there are very few jobs available, and he is having difficulty obtaining a job because of discrimination or unfair hiring practices. He is a hard worker and needs EI to support him and his family while he is between jobs.

## Issue

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

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<sup>1</sup> Section 7 of the *Employment Insurance Act* (EI 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.<sup>2</sup> The Appellant has to prove this on a balance of probabilities.

[9] This means that he has to show that it is more likely than not that he qualifies for benefits.

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

[11] The number of hours depends on the unemployment rate in your region.<sup>4</sup>

### The Appellant’s region and regional rate of unemployment

[12] The Commission decided that the Appellant’s region was Calgary and that the regional rate of unemployment at the time was 5.7%.

[13] This means that the Appellant would need to have worked at least 700 hours in his qualifying period to qualify for EI benefits.<sup>5</sup>

[14] The Appellant agrees with the Commission’s decision about which region apply to him. But he says the Tribunal should use a different unemployment rate.

[15] The Appellant says that using the regional unemployment rate is intended to reflect how difficult it is to get a job. However, the unemployment rate in his region doesn’t reflect the true difficulty of getting a job given employer’s discriminatory and unfair hiring practices. Further, he mainly works in a seasonal industry. So finding work in the off-season is even more difficult.

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

<sup>3</sup> See section 7 of the EI Act.

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

<sup>5</sup> Section 7 of the EI Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

[16] The Appellant provided summaries of news articles that show the unemployment rate in Canada is rising. He says the housing crisis has also flooded his area with people moving from provinces where the cost of living is higher. Both of these factors have only made it more difficult to find work in his region.

[17] I understand the Appellant's argument. But, even though the Appellant is facing these difficult and unique circumstances when trying to find work, I cannot modify the unemployment rate that applies to him to decide if he qualifies for benefits. The law is clear that it is the **regional rate of unemployment** at the time that you apply for benefits that determines how many hours you need to qualify.

[18] There is no evidence that makes me doubt the Commission's decision about the region or regional rate of unemployment that apply to the Appellant. So, I accept as fact that the Appellant needs to have worked 700 hours to qualify for benefits.

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

[19] 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 your benefit period would start.<sup>6</sup>

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

[21] The Commission decided that the Appellant's qualifying period was shorter than the 52 weeks, and went from December 4, 2022, to November 4, 2023. This was because he had started a previous benefit period on December 4, 2022.

[22] Your current qualifying period can't overlap with an earlier qualifying period. The Appellant had an earlier benefit period starting December 4, 2022. And his qualifying period would overlap with his earlier qualifying period if it went back to a time before December 4, 2022.

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<sup>6</sup> See section 8 of the EI Act.

[23] There is no nothing that makes me doubt the Commission's decision. So, I accept as fact that the Appellant's qualifying period is from December 4, 2022, to November 4, 2023.

### **The hours the Appellant worked**

[24] The Commission decided that the Appellant had worked 498 hours during his qualifying period.

[25] 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?**

[26] 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 498 hours.

[27] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive benefits.

[28] 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.<sup>7</sup>

### **Conclusion**

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

[30] This means that the appeal is dismissed.

Catherine Shaw  
Member, General Division – Employment Insurance Section

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<sup>7</sup> See *Pannu v Canada (Attorney General)*, 2004 FCA 90.