



[TRANSLATION]

Citation: *CK v Canada Employment Insurance Commission*, 2024 SST 389

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

Decision

Appellant: C. K.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (636158) dated December 29, 2023 (issued by Service Canada)

Tribunal member: Manon Sauvé
Type of hearing: In person
Hearing date: February 29, 2024
Hearing participant: The Appellant
Decision date: March 1, 2024
File number: GE-24-419

Decision

[1] The appeal is dismissed.

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

Overview

[3] In 2019, the Commission paid the Appellant 15 weeks of sickness benefits. The Appellant then received workers' compensation from December 21, 2019, to July 26, 2023.

[4] On October 20, 2023, the Appellant applied for EI regular benefits. The Commission denied her benefits because she didn't have enough hours of insurable employment during her qualifying period. She needed 700 hours to qualify. She had no hours.

[5] The Appellant then applied for EI sickness benefits. The law now allows for 26 weeks of sickness benefits. She is asking for the remaining 11 weeks.

[6] The Commission also denied the claim for sickness benefits. The Appellant needed 600 hours during her qualifying period. But she had no hours of employment. Also, the new measure for EI sickness benefits has been in effect since December 2022. It cannot apply to the Appellant's claim, since she applied in 2019.

Issue

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

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.¹ 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.

[9] To qualify, you need to have worked enough hours within a certain timeframe. This period is called the “qualifying period.”²

[10] The number of hours depends on the unemployment rate in your region.³

The Appellant’s region and regional rate of unemployment

[11] The Commission determined that the region is Montreal and the surrounding area. The Appellant resides in Laval. The regional rate of unemployment when she applied was 5.4%.

[12] This means that the Appellant would need to have worked at least 700 hours during her qualifying period to qualify for EI benefits.⁴

[13] Concerning the claim for EI sickness benefits, the Appellant would need to have at least 600 hours during her qualifying period.⁵

[14] The Appellant doesn’t dispute the number of hours to qualify for regular and sickness benefits.

¹ See section 48 of the *Employment Insurance Act* (Act).

² See section 7 of the Act.

³ See section 7(2)(b) of the Act and section 17 of the *Employment Insurance Regulations* (Regulations).

⁴ Section 7 of the Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

⁵ Section 93 of the Regulations.

The Appellant's qualifying period

[15] As noted above, the hours counted are the ones that the Appellant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁶

[16] 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.

[17] The Commission says that the Appellant's qualifying period was extended by 52 weeks beyond the usual 52 weeks, because she received workers' compensation payments between December 21, 2019, and July 23, 2023. In other words, the Commission can go up to two years to establish a benefit period.

[18] The current qualifying period can never overlap with a previous qualifying period. This would be the case if the qualifying period had started before September 2019. The Appellant used her insurable hours to establish a claim for EI sickness benefits in 2019. These hours cannot be used to establish a new period.

[19] The Appellant didn't have any hours of insurable employment during her qualifying period, between October 2021 and October 2023, because she hadn't worked. She received workers' compensation payments between December 2019 and July 2023. After that, she didn't go back to work.

[20] Concerning her claim for the 26 weeks of EI sickness benefits, the Appellant doesn't qualify for this new measure. She would like to get 11 additional weeks of sickness benefits, since the Act now allows up to 26 weeks. This new measure was adopted in December 2022. The Act isn't retroactive, so she can't benefit from this new measure.

⁶ See section 8 of the Act.

So, has the Appellant worked enough hours to qualify for EI benefits?

[21] I find that the Appellant hasn't proven that she has enough hours to qualify for benefits. She needed 700 hours for regular benefits and 600 hours for sickness benefits. She didn't have any hours during her qualifying period.

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

[23] 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.⁷

Conclusion

[24] I find that the Appellant doesn't have enough hours to qualify for benefits.

[25] This means that the appeal is dismissed.

Manon Sauvé

Member, General Division – Employment Insurance Section

⁷ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.