



Citation: *HF v Canada Employment Insurance Commission*, 2023 SST 1887

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: H. F.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (612515) dated August 21, 2023 (issued by Service Canada)

Tribunal member: Susan Stapleton

Type of hearing: Videoconference

Hearing date: November 9, 2023

Hearing participant: Appellant

Decision date: November 10, 2023

File number: GE-23-2602

Decision

[1] The appeal is dismissed. The Appellant is disentitled from receiving employment insurance (EI) benefits from May 27, 2023 to August 8, 2023, because she was outside of Canada.

Overview

[2] The Appellant left Canada and travelled to Boston, where she stayed with her daughter for two months.

[3] The Canada Employment Insurance Commission (Commission) decided that the Appellant was disentitled from receiving EI benefits from May 27, 2023 to August 8, 2023, because she was outside of Canada during that period of time.¹

[4] The Appellant asked the Commission to reconsider its decision. She said that her doctor had put her off work due to instability and loss of balance she had been experiencing. She had fallen twice in her home and her daughter was worried about her safety because she lives alone. So, she went to stay with her daughter in the United States, until she returned to Canada to attend a medical appointment.²

[5] On reconsideration, the Commission maintained its decision.³ The Appellant appealed to the Social Security Tribunal (Tribunal).

Issue

[6] Is the Appellant disentitled from receiving EI benefits from May 27, 2023 to August 8, 2023, because she was outside of Canada?

¹ See GD4-1.

² See GD3-19.

³ See GD3-25.

Analysis

[7] Generally, EI benefits are not payable to claimants while they are outside of Canada.⁴ There are some exceptions to this rule, which are listed in the *Employment Insurance Regulations* (EI Regulations).⁵

[8] It's up to the Appellant to prove that her situation falls within one or more of the exceptions in the EI Regulations.⁶

[9] The law says a claimant can receive EI benefits while outside of Canada **if** their travel is for one of the following purposes:

- to undergo medical treatment that is not readily available in Canada;
- to attend the funeral of an immediate family member;
- to accompany an immediate family member to a hospital for medical treatment that is not available in Canada;
- to visit a family member who is seriously ill or injured;
- to conduct a bona fide job search; or
- to attend a bona fide job interview.⁷

[10] The Commission says the Appellant can't be paid benefits from May 27, 2023 to August 8, 2023, because she was outside of Canada and the reason she was outside of Canada is not one of the exceptions listed under the law.

[11] The Appellant submits that her reason for going to stay with her daughter outside of Canada was wise and reasonable, and should be enough to allow her to receive EI benefits.⁸

⁴ See section 37 of the *Employment Insurance Act* (Act).

⁵ See section 55 of the *EI Regulations* and *Attorney General of Canada v Bendahan*, 2012 FCA 237.

⁶ See *Attorney General of Canada v Peterson*, A-370-95.

⁷ See subsection 55(1) of the Act.

⁸ See GD2A-5.

[12] The Appellant testified that she was experiencing a health issue that affected her balance. Her doctor put her off work and told her not to drive. She lives alone and had fallen twice, and she and her family were worried that she would fall again and injure herself. She had friends who had fallen in their homes, and they had to move into nursing homes as a result. She didn't want that to happen to her. So, she travelled to the United States on May 27, 2023, to stay with her daughter, and returned to Canada on August 9, 2023, to attend a medical appointment with a specialist.

[13] I find that the Appellant's reason for being outside of Canada, namely to stay with her daughter in the United States because she lives alone and had an illness that affected her balance, does not fall within any of the exceptions listed in the EI Regulations.

[14] While I sympathize with the circumstances that led to the Appellant leaving Canada to go and stay with her daughter, I cannot change the law.⁹ The Appellant's reason for being outside of Canada is not one of the exceptions listed in the law. Therefore, she is not entitled to receive benefits for the period from May 27, 2023 to August 8, 2023.

Conclusion

[15] The Appellant is disentitled from receiving EI benefits from May 27, 2023 to August 8, 2023, because she was outside of Canada and has not proven that she meets any of the exceptions listed in the EI Regulations.

[16] The appeal is dismissed.

Susan Stapleton
Member, General Division – Employment Insurance Section

⁹ See *Granger v Canada (CEIC)*, [1989] 1 S.C.R. 141.