



Citation: *WR v Canada Employment Insurance Commission*, 2023 SST 1885

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: W. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (606309) dated August 17, 2023
(issued by Service Canada)

Tribunal member: Ambrosia Varaschin

Type of hearing: Teleconference

Hearing date: November 7, 2023

Hearing participant: Appellant

Decision date: November 7, 2023

File number: GE-23-2476

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) 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.¹

[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 she needs 665 hours, but only has 661.

[6] The Appellant says that she lives 45 minutes from the Eastern Nova Scotia economic region and their requirements are only 525 hours. Since she lives close to the boundary, and in her opinion, her region has similar employment prospects, she should be subject to the lower hours requirement.

[7] The Appellant also states that she is only 4 hours short for a claim, which is less than her full workday of 5.6 hours. She says she would have had sufficient insurable hours if she wasn't subject to strike action and school closures from wildfires earlier in the year.

Issue

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

¹ 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

[9] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.² 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 timeframe. This timeframe is called the “qualifying period.”³

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

The Appellant’s region and regional rate of unemployment

[12] The Commission decided that the Appellant’s region was Western Nova Scotia and that the regional rate of unemployment at the time was 6.1%.

[13] This means that the Appellant would need to have worked at least 650 hours in her qualifying period to qualify for EI benefits.⁵

The Appellant doesn’t agree with the Commission

[14] The Appellant accepts that that she lives within the boundary of Western Nova Scotia, but disagrees with the Commission’s decision about which region and regional rate of unemployment applies to her. The Appellant says that she lives 45 minutes from the boundary to Eastern Nova Scotia, which has a higher rate of unemployment. Since she lives close to the boundary, and she believes where she lives has similar employment conditions, especially since her commute to work is also 45 minutes. She

² See section 48 of the EI Act.

³ See section 7 of the EI Act.

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

⁵ 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.

feels she should only need the 525 hours a claimant in Eastern Nova Scotia would need.

[15] I find that the Appellant lives within Western Nova Scotia, and is therefore subject to the regional rate of unemployment and required insurable hours for that economic region. The *Employment Insurance Regulations (Regulations)* states that the economic region that applies to a claimant is the region a claimant ordinarily resides in. She does not live so close to a boundary that it is difficult to determine which region applies to her, as she lives almost an hour from the other region.⁶

[16] While I sympathize with the Appellant's position, and it is very likely her municipality has similar employment levels as the next economic region, the *Employment Insurance Act (Act)* and the *Regulations* are explicit and clear, and don't contemplate "grey areas" for regional lines. I cannot change the law.

[17] So, the Appellant need 650 hours to qualify for benefits.

The Appellant's qualifying period

[18] 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.⁷

[19] 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, 2023 to July 1, 2023.

The Appellant doesn't agree with the Commission

[20] The Appellant disagrees with the Commission about her qualifying period. The Appellant says that her qualifying period should be longer because she was on strike for 5 weeks, and her school was closed for 2 weeks because of the wildfires.

⁶ See Section 17 of the Employment Insurance Regulations.

⁷ See section 8 of the EI Act.

[21] I find the Appellant is not eligible for an extension to her qualifying period. The *Act* specifies four different reasons a qualifying period can be extended, but strike action is not one of them. While a school closure for a wildfire could be considered a cessation of “work because continuing to work would have resulted in danger to the claimant,” since the Appellant did not receive provincial support during this time, I cannot extend her qualifying period for this reason.⁸

The hours the Appellant worked

The Appellant agrees with the Commission

[22] The Commission decided that the Appellant had worked 661 hours during her qualifying period.

[23] The Appellant doesn’t dispute this, and there is no evidence that makes me doubt it. So, I accept it as fact.

[24] The Appellant highlighted that being short 4 hours is less than a full day of work for her, which is 5.6 hours. While I appreciate how frustrating the situation may be for her, the *Act* specifies the number of hours a claimant needs in order to qualify for benefits. It doesn’t take into consideration how many workdays a claimant would need.

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

[25] I find that the Appellant hasn’t proven that she has enough hours to qualify for benefits because she needs 665 hours, but has worked 661 hours.

[26] 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.⁹

⁸ See section 8(2) of the *Act*.

⁹ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.

Conclusion

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

[28] This means that the appeal is dismissed.

Ambrosia Varaschin
Member, General Division – Employment Insurance Section