



Citation: *DS v Canada Employment Insurance Commission*, 2023 SST 1884

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

Decision

Appellant: D. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (593262) dated June 21, 2023 (issued by Service Canada)

Tribunal member: John Rattray

Type of hearing: In person

Hearing date: October 3, 2023

Hearing participant: Appellant

Decision date: October 9, 2023

File number: GE-23-2031

Decision

[1] The appeal is dismissed. The Tribunal disagrees with 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.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 he needs 700 hours, but has 0.

[6] The Appellant disagrees and says that it is unfair that the Commission didn't consider his 45 years of work without filing a claim for EI benefits. He says that he didn't know that EI premiums were not being deducted from the severance payments he received after his last day of work.

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.² The Appellant has to prove this on a balance of probabilities.

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."

² See section 48 of the EI Act.

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

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

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

The Appellant’s region and regional rate of unemployment

[11] The Commission decided that the Appellant’s region was Toronto and that the regional rate of unemployment at the time was 6%.

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

– The Appellant agrees with the Commission

[13] The Appellant agrees with the Commission’s decisions about which region and regional rate of unemployment apply to him.

[14] There is no evidence that makes me doubt the Commission’s decision. So, I accept as fact that the Appellant needs to have worked 700 hours to qualify for benefits.

The Appellant’s qualifying period

[15] 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.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.

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.

⁶ See section 8 of the EI Act.

[17] The Commission decided that the Appellant's qualifying period was the usual 52 weeks. It determined that the Appellant's qualifying period went from April 10, 2022, to April 8, 2023.

– **The Appellant agrees with the Commission**

[18] The Appellant agrees with the Commission's decision about his qualifying period.

[19] 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 April 10, 2022, to April 8, 2023.

The hours the Appellant worked

– **The Appellant agrees with the Commission**

[20] The Commission decided that the Appellant had worked 0 hours during his qualifying period.

[21] The Appellant doesn't dispute this, and there is no evidence that makes me doubt it. He testified that he didn't work after leaving his former employer. So, I accept it as fact.

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

[22] 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 0 hours.

[23] The Appellant agrees that he didn't have enough hours to qualify for benefits. But he says that it's unfair that the Commission didn't consider his 45 years of work without filing a claim for EI benefits. He also says he didn't know that EI premiums weren't being deducted from his severance payments.

[24] Unfortunately for the Appellant, I can't consider his prior hours of work outside of the qualifying period in determining his eligibility for EI benefits. That isn't how the law is structured. Similarly, the issue of whether he knew that EI premiums weren't deducted from his severance payments isn't relevant to the calculation of his hours.

[25] EI is an insurance plan. Like other insurance plans, you have to meet certain requirements to receive benefits. Because the Appellant didn't work 700 hours in the qualifying period, a benefit period can't be established.

[26] The only decision that was reconsidered under section 112 of the *Employment Insurance Act* (Act) was whether the claimant has sufficient hours of insured employment to establish a claim under section 7 of the Act. My jurisdiction is limited to that decision under section 113 of the Act.

[27] 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.⁷

Conclusion

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

[29] This means that the appeal is dismissed.

John Rattray

Member, General Division – Employment Insurance Section

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