



Citation: *SP v Canada Employment Insurance Commission*, 2023 SST 1900

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

Decision

Appellant: S. P.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (596792) dated June 27, 2023 (issued by Service Canada)

Tribunal member: Raelene R Thomas

Type of hearing: Teleconference

Hearing date: September 6, 2023

Hearing participant: Appellant

Decision date: October 25, 2023

File number: GE-23-1971

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.¹

[2] The Appellant has not shown she worked enough hours to qualify for maternity or parental employment insurance (EI) benefits.

Overview

[3] The Appellant applied for maternity and parental EI benefits, but the Canada Employment Insurance Commission (Commission) decided the Appellant hadn't worked enough hours to qualify.²

[4] I have to decide whether the Appellant worked enough hours to qualify for maternity and parental EI benefits.

[5] The Commission says that the Appellant doesn't have enough hours because she needs 600 hours but has 458 hours.

[6] The Appellant disagrees and says she was placed off work by her doctor due to complications associated with her pregnancy. She was required to stand for long periods at work and her employer was not able to accommodate her. But for being placed off work by her doctor, she would have been able to work and earn enough hours to qualify for EI benefits.

Issue

[7] Has the Claimant worked enough hours to qualify for maternity and parental EI benefits?

¹ The *Employment Insurance Act* (EI Act) calls a person who applies for EI benefits a "claimant." A person who appeals a decision of the Commission is called an "Appellant."

² Section 7 of the 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.³ The Appellant has to prove this on a balance of probabilities. This means she has to show it is more likely than not she qualifies for benefits.

[9] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”⁴

[10] The number of hours depends on the unemployment rate in the region where you live.⁵

[11] If you are claiming special benefits, like sickness, maternity and/or parental EI benefits, regardless of where you live, you are required to have 600 hours in the qualifying period.⁶ In this case, the Appellant applied for maternity and parental EI benefits, so she was required to have worked 600 hours in the qualifying period.

The Appellant’s qualifying period

[12] As noted above, the hours counted are the ones the Appellant worked during her qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁷

[13] In some circumstances the qualifying period can be extended to start up to 104 weeks before your benefit period.⁸ Among the circumstances are: being unable to work due to a prescribed illness, injury, quarantine or pregnancy; being in jail or a penitentiary; receiving assistance under employment benefits; or receiving benefits under a provincial law related to pregnancy or breast feeding.

³ See section 48 of the EI Act.

⁴ See section 7 of the EI Act.

⁵ See section 7(2)(b) of the EI Act and section 17 of the *Employment Insurance Regulations* (EI Regulations).

⁶ See Section 93 of the EI Regulations.

⁷ See section 8 of the EI Act.

⁸ See section 8 of the EI Act.

[14] The Appellant applied for maternity and parental EI benefits on May 2, 2023.

[15] The Commission initially decided the Appellant's qualifying period was May 1, 2022 to April 29, 2023.⁹

[16] The Appellant testified she had to quarantine due to COVID-19 and she was off work from September 23, 2022 to November 5, 2022 due to a viral infection.

[17] The Commission later decided the Appellant's qualifying period was from March 13, 2022 to April 29, 2023.¹⁰ It appears the 7-week extension (March 13 to April 30, 2022) to the qualifying period took into account the Appellant being unable to work due to illness during the qualifying period.

[18] The Appellant has no reason to disagree with March 13, 2022 to April 29, 2023 being her qualifying period. 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 March 13, 2022 to April 29, 2023.

The hours the Appellant worked

[19] The Commission initially decided the Appellant had worked 436 hours during her qualifying period. With the 7-week extension to her qualifying period, the Commission decided the Appellant had worked 458 hours during the qualifying period.

[20] The Appellant testified she had not worked anywhere else during her qualifying period. She agreed the hours reported on the Records of Employment (ROEs) issued by her employers were correct. So, I find as fact the Appellant worked 458 hours from March 13, 2022 to April 29, 2023.

⁹ See page GD3-23 in the appeal file

¹⁰ See page GD4-2 in the appeal file.

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

[21] No, I find the Appellant does not have enough hours to qualify for maternity and parental EI benefits because she needs 600 hours but has worked 458 hours in the extended qualifying period.

[22] In this case, the Appellant doesn't meet the requirements, so she doesn't qualify for sickness EI benefits.

[23] I recognize not being able to receive EI benefits has a significant financial impact on the Appellant. I am sympathetic to her circumstances. But as tempting as it may be in some cases (and this may well be one), I am not permitted to re-write the law or to interpret it in a manner that is contrary to its plain meaning.¹¹ I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

Conclusion

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

[25] This means the appeal is dismissed.

Raelene R. Thomas
Member, General Division – Employment Insurance Section

¹¹ *Canada (Attorney General) v. Knee*, 2011 FCA 301. This is how I refer to the courts' decisions that apply to the circumstances of this appeal.