



Citation: *EB v Canada Employment Insurance Commission*, 2024 SST 290

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

Decision

Appellant: E. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (641420) dated January 27, 2024
(issued by Service Canada)

Tribunal member: Catherine Shaw

Type of hearing: In writing

Decision date: February 20, 2024

File number: GE-24-433

Decision

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

[2] The Appellant was outside Canada and doesn't meet any of the exceptions from the disentitlement for being out of the country. This means she cannot be paid EI benefits from December 26, 2023, to January 2, 2024.

Overview

[3] The Appellant took a vacation outside Canada from December 25, 2023, to January 3, 2024.

[4] The Canada Employment Insurance Commission (Commission) decided that it wasn't able to pay the Appellant benefits because she was outside Canada.

[5] The Appellant disagrees. She was on sick leave from work while she underwent cancer treatment. She had preplanned a vacation for this time before she went on sick leave. She couldn't return to work until January 8, 2024, so this didn't interfere with her work.

Matters I have to consider first

[6] The Appellant asked for her hearing to be in writing.¹ A hearing in writing means that I make a decision based on the written arguments and documents sent in by the parties.

[7] After the Appellant received a copy of all the parties' documents, I asked her if she wanted to submit anything else. If she wanted to send anything further, I asked her to do so by February 19, 2024.² She didn't provide anything further by that date, so I made this decision based on the evidence and submissions on file.

¹ See GD2-4.

² See GD5.

Issue

[8] Can the Appellant receive benefits for when she was outside Canada?

Analysis

[9] The general rule is that you can't get EI benefits if you are outside Canada.³ But, the law includes exceptions. For example, you can get EI benefits if you are outside Canada to care for an immediate family member who is seriously ill or to attend a family member's funeral.⁴

[10] The basic facts aren't in dispute. The Appellant travelled outside Canada on December 25, 2023. She returned to Canada on January 3, 2024.

[11] The Appellant was on sick leave from work since. She and her family had planned this vacation before she went on leave.

[12] There's no evidence that the Appellant meets any of the exceptions to this disentitlement.

[13] I understand the Appellant's position. But, the law is clear that you can't receive EI benefits if you are outside Canada unless you meet one of the exceptions to the disentitlement.⁵ I don't have the authority to change the law. And I can't interpret the law or rules about EI in a way that is contrary to their plain meaning, no matter how compelling the circumstances.⁶

[14] The day you travelled isn't usually included in the disentitlement from benefits.⁷ The Appellant left Canada on December 25, 2023. So, her disentitlement began on

³ See section 37(b) of the *Employment Insurance Act*.

⁴ See section 55 of the *Employment Insurance Regulations* (Regulations).

⁵ See section 55 of the Regulations.

⁶ See *Canada (Attorney General) v Knee*, 2011 FCA 301.

⁷ In *Canada (Attorney General) v Picard*, 2014 FCA 46, the Federal Court says that the length of the disentitlement is to be calculated in complete, whole days, during which the Appellant was outside Canada.

December 26, 2023. She returned to Canada on January 3, 2024. This means her disentitlement should end on January 2, 2024.⁸

[15] So, I find the Appellant is disentitled from receiving EI benefits for the period that she was outside Canada. In other words, she cannot be paid EI benefits from December 26, 2023, to January 2, 2024.

Conclusion

[16] The appeal is dismissed.

Catherine Shaw
Member, General Division – Employment Insurance Section

⁸ The Commission ended the Appellant's disentitlement on October 6, 2023, as it was the last full weekday that she was out of the country.