



Citation: *JK v Canada Employment Insurance Commission*, 2023 SST 1903

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: J. K.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (592781) dated June 6, 2023 (issued by Service Canada)

Tribunal member: Harkamal Singh

Type of hearing: Teleconference

Hearing date: September 27, 2023

Hearing participant: Appellant

Decision date: November 3, 2023

File number: GE-23-1760

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the 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 only 697.

[6] The Appellant agrees with the number of hours. But, he believes he should qualify on compassionate grounds, since he is extremely close to the number of hours he needs.

Matter I have to consider first

The Appellant asked me to reschedule the hearing

[7] The hearing was originally scheduled for September 26, 2023, but the Appellant wasn't able to connect on time because of technical issues.

[8] Once connected, the Appellant asked me to reschedule the hearing because he had prior work commitments. In the interest of procedural fairness, and to give the

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."

Appellant the opportunity to fully present his case, I allowed the request and rescheduled the hearing for September 27, 2023.

Issue

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

Analysis

How to qualify for benefits

[10] 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 he has to show that it is more likely than not that he qualifies for benefits.

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

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

The Appellant’s region and regional rate of unemployment

[13] The Commission decided that the Appellant’s region was Central Ontario and that the regional rate of unemployment at the time was 4.6%.

[14] 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

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

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.

[16] 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

[17] 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

[18] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different time frame. Your benefit period is the time when you can receive EI benefits.

[19] The Commission decided that the Appellant's qualifying period was shorter than the usual 52 weeks because the Appellant had an earlier benefit period that started on September 18, 2022.

[20] Your current qualifying period can't overlap with an earlier qualifying period. The Appellant's qualifying period would overlap with his earlier qualifying period if it went back to a time before September 18, 2022.

[21] So, the Commission decided that the Appellant's qualifying period went from September 18, 2022, to April 1, 2023.

– The Appellant agrees with the Commission

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

[23] 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 September 18, 2022, to April 1, 2023.

⁶ See section 8 of the EI Act.

The hours the Appellant worked

– The Appellant agrees with the Commission

[24] The Commission decided that the Appellant had worked 697 hours during his qualifying period.

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

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

[26] 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 697 hours.

[27] The Appellant was his mother's sole caregiver and organized her funeral after she passed away in February 2023. This responsibility significantly affected his ability to work, and he ended up 3 hours shy of the 700 hours needed to qualify.

[28] If the Appellant had known about this small shortfall, he would likely have worked the additional hours needed. His readiness to do so is clear. However, the law requires 700 hours in his situation. This rule ensures fairness and consistency in benefits allocation.

[29] As a Tribunal member, I must apply the law as it is. I don't have the authority to change⁷ or ignore legal requirements, even when the shortfall is small and the reasons are understandable.

[30] While I understand the Appellant's difficult personal circumstances and sympathize with his situation, I have to follow the law. Unfortunately, the Appellant doesn't qualify for EI benefits, since he doesn't have the number of hours required by law.

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

Conclusion

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

[32] This means that the appeal is dismissed.

Harkamal Singh

Member, General Division – Employment Insurance Section