



Citation: *SP v Canada Employment Insurance Commission*, 2023 SST 1940

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: S. P.
Representative: M. K.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (597017) dated July 11, 2023
(issued by Service Canada)

Tribunal member: Raelene R. Thomas

Type of hearing: Teleconference

Hearing date: September 19, 2023

Hearing participants: Appellant
Appellant's representative

Decision date: November 22, 2023

File number: GE-23-2115

Decision

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

[2] The Appellant has not shown 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 the Appellant hadn't worked enough hours to qualify.²

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

[5] The Commission says the Appellant doesn't have enough hours because she needs 700 hours but has 580 hours.³

[6] The Appellant disagrees. She says she is ill and has never applied for support before now. Her financial circumstances are compromising her ability to pay for necessities. The Appellant asks that her appeal be allowed.

Matter I considered first

The hearing was conducted with an interpreter

[7] The Appellant and the Appellant's representative's first language is not English or French, so they communicated at the hearing through the use of an interpreter. The

¹ A person who applies for employment insurance (EI) benefits is called a "Claimant." A person who appeals a decision of the Canada Employment Insurance Commission (Commission) is called an "Appellant."

² Section 7 of the *Employment Insurance Act* (EI Act) says 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."

³ The Commission initially said the Appellant had 556 hours. As is explained below this was later increased to 580 hours.

interpreter affirmed they would accurately, and to the best of their ability, translate the Appellant's and the Appellant's representative's statements.

I am accepting documents received after the hearing

[8] At the hearing, the Appellant's representative, affirmed to give evidence explained the Appellant had worked for company "AESL" but had been unable to get a Record of Employment (ROE) from them.

[9] I asked the Commission to ask company AESL for the ROE and if necessary to get a ruling from the Canada Revenue Agency (CRA) to see if the hours the Appellant worked with AESL were insurable. The Commission obtained the CRA ruling.⁴ I am accepting the CRA ruling into evidence because the ruling relevant to the issue of whether the Appellant has enough hours in the qualifying period.

Issue

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

Analysis

How to qualify for benefits

[11] Not everyone who stops work can receive EI benefits. You have to prove you qualify for benefits.⁵ 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.

[12] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the "qualifying period."⁶

[13] The number of hours required depends on the unemployment rate in your region.⁷ Your region is where you live when your benefit period starts.

⁴ See GD9 in the appeal file.

⁵ See section 48 of the EI Act. This is how I refer to the law that applies to the circumstances of this appeal.

⁶ See section 7 of the EI Act.

⁷ See section 7(2)(b) of the EI Act and section 17 of the EI Regulations.

The Appellant's region and regional rate of unemployment

[14] The EI Regulations divide Canada into Employment Insurance (EI) Economic Regions for the purpose of calculating regional rates of unemployment.⁸

[15] The Appellant applied for EI benefits on April 29, 2023.

[16] The Commission decided the Appellant's EI Economic Region was Toronto. The Appellant's Representative does not disagree with this. So, I accept it as fact.

[17] When the Appellant applied for EI benefits on April 29, 2023 the regional rate of unemployment for the Toronto region was 5.7%. This means that the Appellant would need to have worked at least 700 hours in her qualifying period to qualify for EI benefits.⁹

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.¹⁰

[19] 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.

[20] The Commission decided the Appellant's qualifying period was the usual 52 weeks. This meant the qualifying period went from April 24, 2022 to April 22, 2023.

[21] In some circumstances the qualifying period can be extended to start up to 104 weeks before your benefit period.¹¹ Among the circumstances are: being unable to work due to a prescribed illness, injury, quarantine or pregnancy; being in jail or a

⁸ See section 17(1.1)(a) EI Regulations.

⁹ 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.

¹⁰ See section 8 of the EI Act.

¹¹ See section 8 of the EI Act.

penitentiary; receiving assistance under employment benefits; or receiving benefits under a provincial law related to pregnancy or breast feeding.

[22] The Appellant's representative confirmed none of these circumstances applied to the Appellant.

[23] There is no evidence that makes me doubt the Commission's decision. So, I accept as fact that the Appellant's qualifying period begins on April 24, 2022 and ends on April 22, 2023.

The hours the Appellant worked

[24] The Commission initially decided the Appellant worked 556 hours from April 24, 2022, to April 22, 2023.

[25] The Appellant's Representative does not dispute the hours reported on the ROE issued by ACFS and by FHRS were correct¹² Those hours totaled 556.

[26] The CRA ruled the Appellant worked with 24 hours with AESL.¹³

[27] I am bound by the CRA's ruling that the Appellant worked 24 hours with AESL.¹⁴ In other words, I can't decide that she worked more hours with AESL.

[28] When the 24 hours worked with AESL are added to the 556 hours the Commission already counted the Appellant has 580 hours. I see no evidence that makes me doubt the Appellant has 580 hours. So, I accept it as fact.

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

[29] I find the Appellant has not proven she has enough hours to qualify for benefits because she needs 700 hours and has worked 580.

¹² See pages GD3-23 and GD3-25 in the appeal file for the ROEs. Company ACFS reported the Appellant worked 272 hours. Company FHRS reported she worked 284 hours. $272 + 284 = 556$.

¹³ See page GD9-4 in the appeal file

¹⁴ See section 90 of the EI Act.

[30] In this case, the Appellant doesn't meet the requirements, so she cannot qualify for benefits.

[31] I recognize not qualifying to receive EI benefits has a significant financial impact on the Appellant and her family. 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.¹⁵ I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

Conclusion

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

[33] This means the appeal is dismissed.

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

¹⁵ *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.