



Citation: *RC v Canada Employment Insurance Commission*, 2024 SST 725

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

## Decision

**Appellant:** R. C.  
**Representative:** A. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (647609) dated February 22, 2024  
(issued by Service Canada)

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**Tribunal member:** Paula Turtle

**Type of hearing:** In person

**Hearing date:** May 10, 2024

**Hearing participants:** Appellant  
Appellant's representative

**Decision date:** May 16, 2024

**File number:** GE-24-1162

## Decision

[1] The appeal is dismissed.

## Overview

[2] The Appellant applied for Employment Insurance (EI) family caregiver benefits to care for her husband.

[3] The Commission denied the Appellant's request for benefits. The Commission says the Appellant's husband was not critically ill or injured.

[4] The Appellant's husband had knee replacement surgery for one knee. The Appellant says she submitted a doctor's report that says he was critically ill.

[5] The Appellant asks me to find that she should get benefits for the time she took off work to care for her husband.

## Issue

[6] Is the Appellant eligible for family caregiver benefits?

## Analysis

[7] Family caregiver benefits for adults are special benefits available to claimants who leave work to care for an adult family member who is critically ill.

[8] To receive benefits, a claimant needs a letter from a medical practitioner saying that they need to take care of a critically ill adult relative, and for how long.<sup>1</sup> Family caregiver benefits are paid for a maximum of 15 weeks.<sup>2</sup>

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<sup>1</sup> See section 23.3(1) of the *Employment Insurance Act*.

<sup>2</sup> See sections 12(3)(f) and 12(4.5) of the Act.

[9] The EI Regulations define what a critically ill adult is for the purpose of getting family caregiver benefits.<sup>3</sup> You have to show these two things to show that the person you are caring for critically ill:

- That their baseline state of health has significantly changed.
- And that their life is at risk as a result of an illness or injury.

[10] If you don't have a report from a medical practitioner showing both of these things, the patient you are caring for doesn't meet the test for being critically ill. And you can't get family caregiver benefits.

– **The medical reports don't say the Appellant's husband was critically ill**

[11] The Appellant hasn't shown that her husband was critically ill.

[12] The Appellant gave me these medical reports signed by the family doctor:<sup>4</sup>

- A form for family caregiver leave and critical illness leave under the Ontario Employment Standards Act, dated December 11, 2023. It says the patient has a serious medical condition. The part of the form about "critical illness leave" isn't filled in. There is a place for the medical practitioner to tick off a box that says the patient's life is at risk. But it isn't ticked off.<sup>5</sup>
- A form for EI family caregiver benefits under the EI Act, dated January 15, 2024. I will call this the second form. It says the patient had knee replacement surgery and needs caregiver support. The form contains the statement "The patient's life is at risk as a result of illness or injury". Beside that statement, the doctor ticked the box marked "no".<sup>6</sup>

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<sup>3</sup> See *Employment Insurance Act Regulations*, section 1(7)

<sup>4</sup> The family doctor is a medical practitioner. So, the only issue is whether the reports say the Appellant's husband was critically ill.

<sup>5</sup> See GD3-20.

<sup>6</sup> See GD3-29.

- Another form for EI family caregiver benefits under the EI Act, dated January 31, 2024. I will call this the third form. The third form also contains the statement “The patient’s life is at risk as a result of illness or injury”. Beside that statement, there are x’s above both the “yes” and “no” boxes, and there is a third “x” beside the two boxes.<sup>7</sup>
- The doctor added words to the third form.<sup>8</sup> The doctor wrote this, under the statement about the patient’s life being at risk: “This was not at risk for patient’s life but critical illness which required his wife’s support”.

[13] The Appellant says she had to be there to care for her husband. He couldn’t move without her physical support. She had to help him up the stairs to the washroom. And she had to bring him his meals.

[14] The Appellant says if she wasn’t there to help her husband up and down the stairs, he could have fallen. And if he fell, his life could be at risk.

[15] Occasionally, during her husband’s recovery, the Appellant had to leave the house. This was to do things like going grocery shopping, or meeting with EI about her claim. When she did this, she arranged for a caregiver to take care of him.

[16] The Appellant told me what she thought the doctor meant when she filled in the third form. She said the doctor was saying both “yes” and “no” to the statement that her husband’s life was at risk. Then, she said you have to read all three “x’s” and the doctor’s notes together. And when you do this, the doctor is saying that her husband’s life was at risk. That’s because he needed physical support, and he could have fallen without her help.

[17] The Commission wrote to the Appellant on January 31, 2024. The Commission’s letter says the Appellant wasn’t entitled to benefits because the doctor didn’t say her husband was critically ill or injured.

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<sup>7</sup> See GD3-41.

<sup>8</sup> See GD3-41.

[18] After the January 31, 2024, letter, the Appellant went back to the doctor. She told the doctor that you only get benefits if the patient's life is at risk. And she got the third form from the doctor.

[19] The first two forms clearly don't say the Appellant's husband's life is at risk.

[20] The Appellant says she explained to the doctor that she was denied benefits and what the EI rules were. So, the doctor had a better understanding of what it means for a patient's life to be at risk when she filled in the third form. So, she says that the third form is more reliable.

[21] I don't accept this argument. The doctor didn't need to know what the EI rules are in order to understand what it means for a patient's life to be at risk. So, I don't agree that the third form is more reliable. In fact, I think it is the opposite. The doctor had already filled out medical forms twice and she didn't say the patient's life was at risk. More likely, when the Appellant went back to the doctor, she asked for a new form that might help her to get EI benefits.

[22] So, I find the first two forms more reliable. But even if the third form was the only form, I do not find that it says the patient's life is at risk. I explain this below.

[23] In the third form, the doctor put x's above both yes and no. And then an "x" beside "no". The Appellant asks me to look at the whole form, including the extra words the doctor wrote.

[24] The third form doesn't say that the patient's life was at risk, for these reasons:

- The doctor put x's above both boxes in response to the statement about whether the patient's life was at risk. This means that she either filled in both boxes or she didn't fill in either box. Filling in neither box or both boxes doesn't confirm that the patient's life was at risk. At best, filling in both boxes (or not filling in either one) is contradictory and unclear.

- The doctor wrote this, under the statement about the patient's life being at risk: "This was not at risk for patient's life but critical illness which required his wife's support". These words don't say the patient's life was at risk. Instead, they say his life wasn't at risk and he needed his wife's support. And saying he had a critical illness, but also saying his life wasn't at risk, doesn't mean he had a critical illness under the Act.

[25] The forms say the Appellant's husband needed the Appellant's care or support.

[26] I have no doubt the Appellant's husband needed help. But that's not enough to qualify for benefits.

[27] The forms don't say he was critically ill because they don't say his life was at risk. I can't change what the law says or interpret it in a way that goes against its clear meaning.<sup>9</sup>

[28] I find that the Appellant has not submitted a certificate from a doctor that says her husband was critically ill.

– **The forms don't say his baseline state of health was significantly changed**

[29] The Appellant also has to show that the doctor says that her husband's baseline state of health has significantly changed. But I have decided that the forms don't say the Appellant's husband was critically ill. For that reason alone, the Appellant isn't entitled to benefits.

[30] There is a contradiction between the second and third forms. The second form doesn't say his baseline state of health has changed. The third form says it has. I don't need to decide whether this contradiction on the forms means that his baseline state of health has or hasn't significantly changed. That's because I have found the forms don't say his life was at risk.

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<sup>9</sup> See *Canada (Attorney General) v. Knee*, 2011 FCA 301

## **Conclusion**

[31] The appeal is dismissed.

Paula Turtle

Member, General Division – Employment Insurance Section