



[TRANSLATION]

Citation: *Canada Employment Insurance Commission v CL*, 2024 SST 716

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** Canada Employment Insurance Commission  
**Representative:** Isabelle Thiffault

**Respondent:** C. L.

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**Decision under appeal:** General Division decision dated  
February 29, 2024 (GE-23-2353)

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**Tribunal member:** Pierre Lafontaine

**Hearing type:** Teleconference  
**Hearing date:** June 20, 2024  
**Hearing participants:** Appellant's representative  
Respondent

**Decision date:** June 24, 2024  
**File number:** AD-24-201

## Decision

[1] The appeal is allowed. The file goes back to the Commission so it may decide on the voluntary leave from X and whether the 214 insurable hours from that job should be taken into account under section 7 of the *Employment Insurance Act* (EI Act).

## Overview

[2] The Respondent (Claimant) left his job at X on July 2, 2022, to study in another city. That same day, he found a new job at X. A few weeks later, he got a job in his field of study—forestry—at X. The forest fires in the summer of 2023 stopped the work in the forest. So, he was laid off and he applied for Employment Insurance benefits (EI benefits).

[3] The Appellant (Commission) looked at the Claimant's reasons for leaving his job at X. It found that he voluntarily left his job (or chose to quit) without just cause. The Commission also decided that he hadn't worked enough hours after leaving his job at X to qualify for benefits. The Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left his job at X without just cause. It also found that the Claimant worked enough insurable hours after he voluntarily left his job at X to qualify for EI benefits.

[5] The Commission got permission to appeal the General Division's decision. It says that the General Division made an error of law in finding that the Claimant worked enough insurable hours to qualify for benefits after he voluntarily left his job at X.

[6] I have to decide whether the General Division made an error of law finding that the Claimant worked enough insurable hours to qualify for EI benefits after he voluntarily left his job at X.

[7] I am allowing the Commission's appeal.

## Issue

[8] Did the General Division make an error of law in finding that the Claimant worked enough insurable hours to qualify for EI benefits after he voluntarily left his job at X?

## Analysis

[9] The Commission says that the General Division made an error of law in finding that the Claimant worked enough insurable hours to qualify for EI benefits after he voluntarily left his job at X.

[10] After the General Division hearing, the Claimant gave a Record of Employment (ROE) from X that said that he worked 49 hours from July 7, 2022, to November 27, 2022, and that he voluntarily left. The Claimant also gave an employer's report of the hours worked that showed he worked 213.81 hours for that employer.

[11] The General Division asked the Commission to investigate and provide a report so that the Canada Revenue Agency (CRA) could determine the number of insurable hours at X. The CRA's decision showed that, while working at X, the Claimant worked 214 insurable hours from July 7, 2022, to November 27, 2022.

[12] The General Division decided that the Claimant qualified for EI benefits because he worked the required number of hours to establish a claim after he voluntarily left X—700 hours.

[13] The General Division's calculation took into account the 214 hours worked at X during the qualifying period.

[14] The Commission says that the General Division could not determine the Claimant's entitlement because the Commission had to first decide whether the Claimant left his job at X without just cause.

[15] The ROE from X says the Claimant voluntarily left his job.<sup>1</sup>

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<sup>1</sup> GD6-2.

[16] I note that the Commission says in its December 1, 2023, written arguments to the General Division that it will decide on the voluntary leave from X when the file returns.<sup>2</sup>

[17] I also note that the Commission says in its February 15, 2024, written arguments to the General Division that it would add the 214 hours at X, if, after assessment, the reason the employment ended was justified.<sup>3</sup>

[18] The law says that when a claimant who has left their job without just cause makes an initial claim for benefits, the hours of insurable employment from that or any other job before voluntarily leaving and the hours of insurable employment in any job that the claimant **loses or leaves afterwards**, in the same circumstances, are not taken into account under section 7 of the EI Act.<sup>4</sup>

[19] In finding that the Claimant worked enough hours of insurable employment after he voluntarily left his job at X to qualify for EI benefits, the General Division made an error of law.

[20] This means that I am justified in intervening.

## Remedy

[21] Considering that the parties had the opportunity to present their case to the General Division, I will give the decision that the General Division should have given.

[22] The Commission has to decide whether the Claimant has worked, since voluntarily leaving his job at X without just cause, the number of hours required under section 7 of the EI Act to get EI benefits.

[23] The Claimant worked 214 hours of insurable employment at X for a total of 838 hours during his qualifying period.

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<sup>2</sup> GD10-1.

<sup>3</sup> GD13-1.

<sup>4</sup> See section 30(1) and 30(5) of the *Employment Insurance Act*.

[24] The ROE from X shows that the Claimant left his job voluntarily.

[25] The file must be sent back to the Commission so that it can decide on the voluntary leave from X and whether the 214 insurable hours from this job should be taken into account under section 7 of the EI Act.

## **Conclusion**

[26] The Commission's appeal is allowed. The file returns to the Commission so it can decide on the voluntary leave from X and whether the 214 insurable hours from this job should be taken into account under section 7 of the EI Act.

[27] Because of the many delays in this file, I ask that the Commission decide on the voluntary leave from X within 30 days of this decision.

Pierre Lafontaine  
Member, Appeal Division