



Citation: *LB v Canada Employment Insurance Commission*, 2024 SST 1684

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: L. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (666598) dated June 12, 2024
(issued by Service Canada)

Tribunal member: Elyse Rosen

Type of hearing: Videoconference

Hearing date: July 19, 2024

Hearing participant: Appellant

Decision date: July 19, 2024

File number: GE-24-2316

Decision

[1] The appeal is allowed.

[2] The Appellant is entitled to an extension of her benefit period that would allow her to be paid 15 weeks of maternity benefits, 35 weeks of standard parental benefits, and up to 26 weeks of sickness benefits.

Overview

[3] The Appellant applied for EI maternity and parental benefits. A benefit period was established effective March 5, 2023.

[4] The Appellant received 15 weeks of maternity benefits from March 12, 2023, to June 24, 2024, followed by 35 weeks of parental benefits from June 25, 2023, to February 24, 2024.

[5] During her parental leave the Appellant experienced two traumatic events. She was diagnosed with post-traumatic stress disorder (PTSD).

[6] When the leave period that the Appellant had arranged with her employer ended, she wasn't able to return to work as a result of her PTSD. Her doctor says she likely won't be able to return to work until September or October 2024.¹

[7] The Appellant made a claim for sickness benefits on March 4, 2024. This is the date when she had been expected to be back at work but couldn't return.

[8] The Canada Employment Insurance Commission (Commission) says it can't pay the Appellant sickness benefits. It contends that her original benefit period can't be extended and that she doesn't have enough insurable hours to establish a new benefit period.²

¹ See GD2-10.

² She would need 600 hours to establish a new benefit period.

[9] The Appellant says she needs sickness benefits to pay for her living expenses and the costs of her treatment.

[10] I have to decide if the Appellant is entitled to an extension of her benefit period.

Issue

[11] Can the Appellant's benefit period be extended?

Analysis

[12] I find that the Appellant's benefit period can be extended to allow her to be paid up to the maximum total number of weeks of maternity, parental, and sickness benefits.

The law

[13] When you make a claim for benefits, a benefit period is established. Your benefit period is the window of time during which benefits can be paid to you.

[14] The length of a benefit period is normally 52 weeks, but it can be extended under certain circumstances.³

[15] The fact that a benefit period is usually 52 weeks long doesn't mean that claimants are entitled to 52 weeks of benefits. Each type of benefits is paid for up to a maximum number of weeks. Maternity benefits are paid for a maximum of 15 weeks, standard parental benefits are paid for a maximum of 35 weeks, and sickness benefits are paid for a maximum of 26 weeks.⁴

[16] One of the circumstances where a benefit period can be extended is when a claimant has received more than one type of special benefit in their benefit period but would receive less than their maximum entitlement to at least one of those types of benefits if the period for paying them ended after 52 weeks.⁵

³ See section 10(2) of the *Employment Insurance Act* (Act).

⁴ See section 12(3) of the Act.

⁵ See section 10(13) of the Act.

[17] Maternity, parental, and sickness benefits are all special benefits.

The Appellant's circumstances

[18] The Appellant established a benefit period on March 5, 2023. This means her benefit period would normally have ended 52 weeks later on March 2, 2024.

[19] On February 24, 2024, she had received the maximum number of weeks of maternity and parental benefits she was entitled to (15 weeks of maternity benefits and 35 weeks of standard parental benefits, for a total of 50 weeks). This is the maximum allowable number of weeks of special benefits a claimant is entitled to **unless their benefit period is extended**.⁶

[20] On March 4, 2024, the Appellant made a claim for sickness benefits because she wasn't able to return to work following her parental leave as a result of her PTSD. But her illness had begun well before then.

Applying the law to the Appellant's circumstances

[21] The Commission denied the Appellant's claim for sickness benefits. It accepts that the Appellant has proven she was too sick to work as of February 29, 2024. But it contends that her benefit period terminated on February 24, 2024, once she received 50 weeks of maternity and parental benefits combined.

[22] The Commission advances that the Appellant would have been able to establish a claim for sickness benefits as of February 25, 2024, but for the fact that her benefit period had already terminated by that date.⁷ It also argues that because she hasn't proven that her incapacity began during her benefit period, she doesn't qualify for an extension.

[23] I don't agree that the Appellant hasn't proven that her incapacity began during her benefit period. From her testimony and from the medical evidence that she provided

⁶ See section 12(5) of the Act.

⁷ Claims start on the Sunday of the week you become entitled to benefits. Since the Appellant became too sick to work on February 29, 2024, her claim would have started on February 25, 2024, which is the Sunday of that week.

with her appeal, I find that the Appellant wasn't capable of working as of at least as early as September 2023.⁸

[24] The Commission argues that the medical information that the Appellant provided with her appeal is ambiguous. I disagree. It clearly states that one of the events that led to her PTSD occurred in September 2023. And when read in light of the Appellant's testimony that some of the traumatic events mentioned in the medical evidence predate September 2023, it's clear to me that the medical evidence confirms she was too ill to work **at least** as early as September 2023.

[25] I also don't agree with the Commission's pretension that the Appellant's benefit period terminated on February 24, 2024, after she received 50 weeks of benefits. The Commission is confounding the duration of the Appellant's benefit period with the number of weeks of benefits she could be entitled to.

[26] In this case, the Appellant renewed her benefit period by making a claim for sickness benefits. So, her benefit period didn't terminate on February 24, 2024.

[27] The law says that you have three weeks from the week you are claiming benefits to make your claim.⁹

[28] On March 4, 2024, the Appellant filed a claim for sickness benefits. This means her claim could be antedated to as early as February 11, 2024.

[29] Had the Commission converted the Appellant's claim to a claim for sickness benefits as of that date, the Appellant would have been entitled to an extension of her benefit period to allow her to collect the maximum number of allowable weeks of both parental benefits and sickness benefits.¹⁰ This is because she would have been paid

⁸ See GD2-9 and following. The medical certificate indicates that the Appellant witnessed a traumatic event in September 2023 that led to her PTSD.

⁹ See section 26 of the *Employment Insurance Regulations* (Regulations).

¹⁰ See sections 10(13) and 12(6) of the Act.

both parental benefits and sickness benefits for less than the maximum number of weeks allowable for each of those reasons.¹¹

[30] Therefore, the Appellant is entitled to an extension of her benefit period so that she can be paid 15 weeks of maternity benefits, 35 weeks of parental benefits, and up to 26 weeks of sickness benefits.¹²

Conclusion

[31] The appeal is allowed.

[32] The Appellant is entitled to an extension of her benefit period that would allow her to be paid 15 weeks of maternity benefits, 35 weeks of standard parental benefits, and up to 26 weeks of sickness benefits.

Elyse Rosen

Member, General Division – Employment Insurance Section

¹¹ Section 23(3.2) of the Act allow for the extension of the parental benefit window in these circumstances.

¹² I say **up to** 26 weeks because at the time of writing this decision 26 weeks have not yet gone by from the time the claim for sickness benefits should have been established. If the Appellant becomes well enough to work before the 26-week maximum entitlement ends, she would be entitled to be paid fewer than 26 weeks of benefits.