



Citation: *KG v Canada Employment Insurance Commission*, 2025 SST 308

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: K. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (706350) dated February 4, 2025
(issued by Service Canada)

Tribunal member: Catherine Shaw

Type of hearing: Teleconference

Hearing date: February 20, 2025

Hearing participant: Appellant
Appellant's spouse

Decision date: February 21, 2025

File number: GE-25-355

Decision

[1] The appeal is dismissed. The General Division 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 665 hours but has only 621.

[6] The Appellant disagrees. He works at a golf course and there were numerous times that he couldn't work due to significant rainfall, flooding, and other weather events. He was also off work for around a week to recover from surgery. All of this contributed to him working fewer hours than he normally would. There was nothing he could have done to work more hours.

Issue

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

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."

Analysis

How to qualify for benefits

[8] 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.

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

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

The Appellant’s region and regional rate of unemployment

[11] The Commission decided that the Appellant’s region was London Ontario and that the regional rate of unemployment at the time was 6.5%.

[12] This means that the Appellant would need to have worked at least 665 hours in his qualifying period to qualify for EI benefits.⁵

[13] The Appellant doesn’t dispute the Commission’s decisions about which region and regional rate of unemployment apply to him.

[14] There is no evidence that makes me doubt the Commission’s decision. So, I accept as fact that the Appellant needs to have worked 665 hours to qualify for benefits.

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.

The Appellant's qualifying period

[15] 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

[16] 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.

[17] The Commission decided that the Appellant's qualifying period was the regular 52 weeks, and went from November 12, 2023, to November 9, 2024.

[18] Your qualifying period can be extended in some circumstances. For example, if you weren't able to work because of an injury, your qualifying period is extended by the number of weeks you couldn't work.⁷

[19] However, your current qualifying period can't overlap with an earlier qualifying period. The Appellant had an earlier benefit period starting November 5, 2023. So, his qualifying period would overlap with his earlier qualifying period if it went back to a time before November 5, 2023.

[20] I find the Appellant meets the condition to have his qualifying period extended. This is because he was unable to work for one week while he was recovering from surgery. His qualifying period can be extended by one week for this reason.⁸

[21] With the extension, I find the Appellant's qualifying period is from November 5, 2023, to November 9, 2024.

The hours the Appellant worked

[22] The Commission decided that the Appellant had worked 621 hours during his qualifying period of November 12, 2023, to November 9, 2024.

⁶ See section 8 of the EI Act.

⁷ See section 8(2)(a) of the EI Act.

⁸ I note that the Appellant's qualifying period couldn't be extended more than one week because of his earlier benefit period, anyway.

[23] I have extended the Appellant's qualifying period by one week. So, any hours he worked in the week of November 5 to November 11, 2023, can also be counted.

[24] Unfortunately, both parties agree that the Appellant didn't work any hours in this week. This week was after the season had ended at his job, so there were no hours to work. This means extending his qualifying period by this one week doesn't make a difference to the number of hours he had.

[25] The Appellant doesn't dispute that he had 621 hours in his qualifying period, 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 665 hours but has worked 612 hours.

[27] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive benefits.

[28] I understand the Appellant will be disappointed with this result. I don't doubt that he was prevented from working many hours due to circumstances outside of his control. Unfortunately, I am bound to apply the law as it is written. In dealing with cases where the resulting decision may seem unfair on its face, the Federal Court of Appeal has said:

...rigid rules are always apt to give rise to some harsh results that appear to be at odds with the objectives of the statutory scheme. However, tempting as it may be in such cases (and this may well be one), adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning.⁹

⁹ See *Canada (Attorney General) v Knee*, 2011 FCA 301 at para 9.

Conclusion

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

[30] This means that the appeal is dismissed.

Catherine Shaw

Member, General Division – Employment Insurance Section