



Citation: *RZ v Canada Employment Insurance Commission*, 2024 SST 1703

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: R. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (659276) dated April 26, 2024
(issued by Service Canada)

Tribunal member: Teresa M. Day

Type of hearing: Teleconference

Hearing date: July 4, 2024

Hearing participants:

Decision date: July 5, 2024

File number: GE-24-1968

Decision

[1] The appeal is dismissed.

[2] The Appellant is disentitled to employment insurance (EI) benefits from September 7, 2023 to December 15, 2023 because she was outside of Canada.

Overview

[3] The Appellant started a claim for **regular** EI benefits on March 5, 2023.

[4] On October 3, 2023, she advised the Respondent (Commission) that she had left Canada on September 3, 2023 and traveled to China to take a training course and upgrade her teaching certificates.

[5] On January 11, 2024, she advised the Commission that she returned to Canada on December 15, 2023 and asked for her claim to be converted to EI **sickness** benefits for the entire time she was in China.

[6] The Commission imposed a disentitlement on her claim from September 7, 2023 to December 15, 2023 because she was not in Canada and did not prove she was available for work.

[7] The Appellant asked the Commission to reconsider. She said she went to China to get a teacher's certificate so she could teach Mandarin at a Chinese language school in Canada and got sick while she was there. She also said she had been in touch with an employment counsellor prior to leaving Canada. However, the Commission subsequently confirmed the Appellant was not sponsored to go to China to take training.

[8] The Commission maintained the disentitlement on her claim.

[9] The Appellant appealed to the Social Security Tribunal (Tribunal)¹.

¹ The reconsideration decision issued by the Commission says it is maintaining its original decision on the issue "Out of Canada" (see GD3-44). Since there is no evidence the Commission reconsidered its decision on the Appellant's availability, I will not consider that issue. This is because the Tribunal only has jurisdiction over decisions that have been reconsidered.

[10] She says the Commission should pay her EI benefits while she was outside of Canada because she has proven she was ill and unable to work².

Preliminary Matter

[11] The Appellant didn't attend the hearing of her appeal on July 3, 2024³.

[12] A member of the Tribunal's operations staff reached out to the Appellant by phone shortly after the hearing started on July 3, 2024. The Appellant said she didn't know her hearing was scheduled for July 3, 2024 and would like to re-schedule because she wasn't available. The Appellant confirmed she was available the next day (July 4, 2024) before 3:00pm Pacific time.

[13] I agreed to re-schedule the Appellant's hearing to July 4, 2024 starting at 1:00pm Pacific Time. This was communicated to the Appellant while she remained on the phone with the Tribunal's operations staff member and she confirmed she understood this was when her hearing would proceed.

[14] A new Notice of Hearing was sent to the Appellant's email address on the morning of July 4, 2024. The same Tribunal staff member who contacted the Appellant when she didn't attend the July 3, 2024 hearing also left a voicemail message for the Appellant on the morning of July 4, 2024. In this voicemail message, the Appellant was advised that a new Notice of Hearing had been sent to her and to contact the Tribunal if she didn't receive it or had any issues logging in to the hearing.

[15] The Appellant didn't attend the hearing of her appeal on July 4, 2024.

[16] A member of the Tribunal's operations staff reached out to the Appellant by phone shortly after the hearing started on July 4, 2024, but her phone went straight to voicemail. The Tribunal staff member left another voicemail message for the Appellant

² See GD2-5.

³ In her Notice of Appeal, the Appellant authorized the Tribunal to communicate with her by email, but she didn't provide an email address on her appeal form. One of the Tribunal's registry officers contacted the Appellant by phone and the Appellant provided an email address and confirmed the Tribunal was to use this email address to communicate with her. A Notice of Hearing for the July 3, 2024 hearing was sent to the Appellant's email address on June 25, 2024.

explaining that her hearing was underway and to reach out if she needed assistance joining the teleconference.

[17] I waited 30 minutes beyond the scheduled time for the hearing via teleconference, but the Appellant never joined the call. I then proceeded with the hearing in accordance with the Tribunal's rules and regulations.

[18] I am satisfied the Appellant received notice of the hearing and had the information necessary to participate in the hearing on July 4, 2024.

[19] First, the Appellant agreed to the July 4, 2024 hearing date and time when she requested an adjournment at the opening of her hearing on July 3, 2024.

[20] Second, the Tribunal sent the Notice of Hearing to her by email early in the morning on July 4, 2024. The Appellant authorized the Tribunal to communicate with her via this email address. I can see that the Notice of Hearing was sent to the email address the Appellant provided, and that the Tribunal hasn't received notification of any delivery failure in connection with that email address. I am therefore satisfied the Notice of Hearing was delivered to the Appellant by E-mail on July 4, 2024 at 7:20am Eastern Time (4:20am Pacific Time).

[21] Third, prior to the hearing on July 4, 2024, a member of the Tribunal's operations staff left a detailed message on the Appellant's voicemail to remind her of her hearing. And another staff member attempted to reach the Appellant on July 4, 2024 while I was waiting for her to join the call. This staff member reported to me that the Appellant did not answer her phone, but that they left a voicemail message for her asking her to contact the Tribunal's Help Line. No response was received from the Appellant.

[22] This is the decision on her appeal.

Issue

[23] Is the Appellant entitled to EI benefits while she was outside of Canada?

Analysis

[24] The law very clearly says you are **not** entitled to receive EI benefits of any kind for any period during which you are not in Canada⁴, unless you fall under one of the exceptions set out in the *Employment Insurance Regulations* (Regulations)⁵.

[25] The exceptions allow a claimant to receive EI benefits while outside of Canada if the travel is for one of the following specific purposes, namely:

- to undergo medical treatment that is not readily available in Canada,
- to attend the funeral of an immediate family member (7 days),
- to accompany an immediate family member to a hospital for medical treatment that is not available in Canada (7 days),
- to visit a family member who is seriously ill or injured (7 days),
- to conduct a bona fide job search (14 days) or attend a bona fide job interview (7 days).

[26] The Appellant is not relying on any of these exceptions.

[27] During the reconsideration process, she argued that obtaining her teaching certification in China was necessary for her to teach in Canada and that her employment counselor agreed.

[28] The Regulations say a claimant will not be disentitled to EI benefits for being outside of Canada ***if*** they are attending a course or program of instruction or training pursuant to section 25(1)(a) of the *Employment Insurance Act* (EI Act)⁶. This section of

⁴ Section 37(b) of the *Employment Insurance Act* (EI Act).

⁵ Section 55(1) of the *Employment Insurance Regulations* (Regulations).

⁶ See section 55(4) of the Regulations.

the EI Act allows claimants to receive EI benefits while attending a training course if they are referred (sponsored) by the Commission⁷ **prior to starting their program.**

[29] This means that if the Appellant can show she was referred to the teacher certification/training course by the Commission or another employment support organization prior to starting the training in China (in other words, pursuant to section 25 of the EI Act), she may be entitled to EI benefits.

[30] But the evidence doesn't support her argument. The Appellant's employment counselor at WorkBC told the Commission the Appellant was never referred to do any training under section 25 of the EI Act⁸.

[31] The Appellant can only receive EI benefits while outside of Canada if she proves that one of the exceptions listed in the Regulations applies to her situation, or that she was referred to the training course in China under section 25 of the EI Act.

[32] She has not done so.

[33] I acknowledge the Appellant provided medical evidence to support that she was ill while she was in China. But that's not enough.

[34] Being ill while outside of Canada is not one of the exceptions listed in the law⁹, nor is taking a training course outside of Canada in order to improve one's employment prospects. And I don't have discretion to add other circumstances to the list of exceptions or to interpret the law in any way other than its plain meaning¹⁰.

[35] Having failed to bring her travel within any of the exceptions listed in subsections 55(1) or (4) of the Regulations, I find that section 37 of the EI Act applies to the

⁷ Or an employment support organization designated for such purposes by the Commission.

⁸ See GD3-42.

⁹ There are cases that have considered scenarios where a claimant who as receiving sickness benefits left Canada, and these cases found the claimant was disentitled to benefits while outside of Canada: see *CUBs 63017, 65725, 66946*, and *DW v. CEIC*, 2016 SSTADEI29,

¹⁰ *Attorney General of Canada v. Knee*, 2001 FCA 301.

Appellant's claim and that she is disentitled to EI benefits from September 7, 2023 to December 15, 2023 because she was outside of Canada.

Conclusion

[36] The Appellant is disentitled to EI benefits from September 7, 2023 to December 15, 2023 because she was outside of Canada and didn't prove she qualifies for any of the statutory exceptions allowed by law.

[37] I don't have jurisdiction to create another exception that would cover the Appellant's circumstances or allow her to receive EI benefits during this period.

[38] The appeal is dismissed.

Teresa M. Day
Member, General Division – Employment Insurance Section