Citation: *FP v Canada Employment Insurance Commission*, 2025 SST 348

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	F. P.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated February 20, 2025 (GE-25-320)

Tribunal member:	Elizabeth Usprich
Decision date:	April 9, 2025
File number:	AD-25-185

Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

Overview

[2] F. P. is the Applicant. She applied for Employment Insurance (EI) benefits after she lost her job in October 2024.

[3] The Canada Employment Insurance Commission (Commission) said she didn't have enough hours in her qualifying period to receive EI regular benefits. The Applicant asked the Commission to reconsider but it didn't change its position.

[4] The Applicant then appealed to the Social Security Tribunal (Tribunal) General Division. The General Division agreed with the Commission. It confirmed the Applicant didn't have enough hours to receive EI benefits.

[5] The Applicant has now asked for permission to appeal to the Tribunal's Appeal Division. I am denying the Applicant's request for permission to appeal because there is no reasonable chance of success.

Preliminary matters

[6] I held a case conference to understand what the Applicant feels the General Division did wrong. The Applicant made it clear that she didn't take issue with the hours or the calculation of hours. Instead, she feels that the General Division should have considered her situation globally, should have considered she was only working part-time and should have taken all the money she made and divided it by her hourly wage. So, that is what I will focus on.

Issues

[7] The issues in this appeal are:

a) Is there an arguable case that the General Division didn't follow procedural fairness in how it conducted or decided the appeal?

b) Is there an arguable case that the General Division made any other reviewable error?

I am not giving the Applicant permission to appeal

[8] An appeal can only go ahead if the Appeal Division gives an applicant permission to appeal.[1] I have to be satisfied that the appeal has a reasonable chance of success.[2] There has to be an arguable ground upon which the appeal might succeed.[3]

[9] There are only certain grounds of appeal that the Appeal Division can consider.[4] Briefly, the Applicant has to show the General Division did one of the following:

- It acted unfairly in some way.
- It decided an issue it shouldn't have, or didn't decide an issue it should have. This is also called an error of jurisdiction.
- It made an error of law.
- It based its decision on an important error of fact.

[10] So, for the Applicant's appeal to go ahead, I have to find there is a reasonable chance of success on any of those grounds.

The General Division provided a fair process

[11] A fair process is also called natural justice. These principles include making sure parties have a fair opportunity to present their case and have it decided by an impartial decision-maker. I can only look at an error the General Division did, or didn't do.[5]

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[1] See section 56(1) of the Department of *Employment and Social Development Act* (DESD Act).
[2] See section 58(2) of the DESD Act.
[3] See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13; *O'Rourke v Canada (Attorney General)*, 2018 FC 498; *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.
[4] See section 58(1) of the DESD Act. The grounds listed are also known as errors.
[5] See *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69; and *Kuk v Canada (Attorney General)*, 2024 FCA 74 at paragraph 10.

[12] The Applicant feels that her Record of Employment (ROE) is correct when it lists her total number of hours she worked between September 13, 2023, and October 21, 2024.[6] The number of hours was 615 hours. But all those hours aren't included in the Applicant's qualifying period.[7] Some hours were already used in the Applicant's sickness EI benefits claim that she had previously. The Applicant doesn't dispute this.[8]

[13] No one has disputed the regional rate of unemployment or that 665 hours was the required threshold.[9] The Applicant feels that while she doesn't have the hours required, everything in her situation should be considered.

[14] The Applicant feels the General Division was unfair because she feels it didn't fully consider her situation globally. She feels the following things should have been considered: that she was a part-time employee, that the total sum of money she received should be converted into hours, and that her hours were close to what she needed.

[15] The Applicant feels that because she was only working part-time hours that there should be a different threshold of hours required. Unfortunately, that isn't the law. The law doesn't require that someone work full-time hours. But there aren't separate threshold requirements for the number of hours someone needs to qualify for EI regular benefits. It's still based on a claimant's region and regional rate of unemployment.[10] The General Division didn't make any error when it identified the legal test and the findings it had to make.

[16] Likewise, I understand the Applicant's argument that all her earnings should be divided by her hourly rate of pay. But that also is not how it works. Hours only "count" as

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[6] See GD3-13, the Applicant's Record of Employment (ROE) in the Commission's Reconsideration File.
[7] See the General Division decision at paragraphs 17 and 19.
[8] The Applicant was clear that she wasn't disputing the number of hours on her ROE. She doesn't feel her employer made any error with the ROE. She understood that neither the Commission nor the Tribunal has the authority to make a finding about the hours she worked. If she disputed the hours on her ROE she understood, she would have to appeal to the Canada Revenue Agency who has the authority.
[9] See the General Division decision at paragraphs 11 and 12.
[10] See section 7 of the *Employment Insurance Act*. It sets out the number of hours that a person needs to qualify for EI regular benefits.

insurable hours if the time is worked.[11] I also understand the Applicant feels she was working for her employer for 16 years and paid into the EI system. Again, that can't be considered. The qualifying period, and the insurable hours within that time, are the only consideration. The General Division was correct for not considering this.

[17] The Applicant feels her whole situation should be considered. She doesn't feel she's short by that many hours. She feels an exception should be made based on her particular circumstances.[12] Unfortunately, the law is strict. As noted by the Federal Court of Appeal in a case where the claimant was short only one hour, "the Act does not allow any discrepancy and provides no discretion."[13] So, only the hours that she worked during her qualifying period can be considered. In this case, it means the Applicant is short the number of hours required for EI regular benefits.

[18] There is no arguable case that the General Division provided the Applicant with an unfair process.

– **There are no additional errors in the General Division decision**

[19] Because the Applicant is self-represented, I reviewed the file, listened to the hearing recording, and looked at the decision the Applicant is appealing. I haven't found any reviewable error that the General Division may have made.[14]

Conclusion

[20] Permission to appeal is refused. This means that the appeal will not proceed.

Elizabeth Usprich
Member, Appeal Division

[11] See section 9.1 of the *Employment Insurance Regulations*.
[12] The General Division did consider this. See the General Division decision at paragraphs 22 to 28.
[13] See *Canada (Procureur Général) c Lévesque*, 2001 FCA 304 at paragraph 2.
[14] The Federal Court has said I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.