



Citation: *AG v Canada Employment Insurance Commission*, 2025 SST 370

**Social Security Tribunal of Canada
General Division – Employment Insurance Section**

Decision

Appellant: A. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (719991) dated March 20, 2025
(issued by Service Canada)

Tribunal member: Raelene R. Thomas

Type of hearing: Teleconference

Hearing date: April 2, 2025

Hearing participant: Appellant

Decision date: April 7, 2025

File number: GE-25-951

Decision

[1] The appeal is dismissed. The General Division of the Tribunal disagrees with the Appellant.¹

[2] The Appellant's election (choice) of extended parental employment insurance (EI) benefits cannot be changed to standard parental benefits.

Overview

[3] When you fill out your EI parental benefits application, you need to choose between two options: the "standard option" and the "extended option." Your choice is called an "election."

[4] The Appellant applied for maternity and parental benefits on November 14, 2024. On her application for EI benefits, she chose to receive her parental benefits after her maternity benefits. The Appellant indicated she wanted 52 weeks of extended parental benefits.

[5] The Appellant asked the Commission to change the extended parental benefits to standard parental benefits.² The Commission refused her request because it said once parental benefits are paid to a parent, the parental benefits election cannot be changed.³

[6] The Appellant disagrees with the Commission. She says when she applied for her EI benefits, she thought her choice of 52 weeks matched her intention to be off work for 12 months. The Appellant says she chose extended benefits by mistake, and she cannot afford to stay off work for the full 52 weeks.

¹ A person who applies for employment insurance (EI) benefits is called a "claimant." A person who appeals a decision to the Social Security Tribunal (Tribunal) is called an "Appellant."

² Service Canada acts on behalf of the Canada Employment Insurance Commission. For simplicity, this decision refers only to the Commission.

³ The first payment of parental benefits was on January 17, 2025.

[7] I have to decide if the Appellant can change her parental benefits from the extended option to the standard option.

Issue

[8] Can the Appellant change her parental benefits from extended to standard?

Analysis

[9] When you apply for EI parental benefits, you need to choose between the standard option and the extended option.⁴

[10] The law says you can't change options once the Commission starts paying parental benefits.⁵ The choice becomes irrevocable.

[11] The standard option pays benefits at the normal rate of 55% for up to 35 weeks. The extended option pays benefits at a lower rate of 33% for up to 61 weeks.⁶

[12] In the Appellant's case 55% of her weekly insurable earnings is \$668. And 33% of her weekly insurable earnings is \$401.⁷

[13] The Appellant applied on-line for maternity and parental benefits on November 14, 2024. On her application, the Appellant chose maternity benefits to be followed by parental benefits. She then chose extended parental benefits. And, under that selection she indicated she wanted 52 weeks of parental benefits.

[14] The Commission paid the Appellant her first parental benefits on January 17, 2025.

[15] On February 5, 2025, the Appellant asked the Commission to change her election from extended to standard parental benefits.

⁴ Section 23(1.1) of the *Employment Insurance Act* (EI Act) says that, when you make a claim for benefits under that section, you have to choose to receive benefits over a maximum of 35 or 61 weeks.

⁵ Section 23(1.2) says that the choice is irrevocable (that is, final) once you receive parental benefits.

⁶ These percentages are the percentages of your normal weekly insurable earnings. Parents of the same child can share 40 weeks of standard parental benefits or 69 weeks of extended parental benefits.

⁷ These are the gross amounts of EI benefits.

[16] The Appellant testified she thought she did not have to apply for EI benefits when her baby was born. She thought her employer applied on her behalf. It was not until she spoke to her sister that she learned she was responsible for applying.

[17] The Appellant said when she applied for benefits, she understood that by selecting 52 weeks she was matching what she indicated on the leave forms she completed at her job which was taking a year off work. In her view there were two answers on the page about parental benefits. She argued that had she chosen 35 weeks in the drop-down menu she would have received standard parental benefits.

[18] The Commission says the Appellant's choice of extended parental benefits became irrevocable when she received the first payment of those benefits. It says it has no legal obligation to question the Appellant's election of benefits or to examine her intentions. The Commission says there is no flexibility in the election of benefits. The law is clear once the choice of election is made, and benefits paid that choice cannot be recalled.

[19] I note the Appellant's first selection on the page dealing with parental benefits was to select the extended option. After that selection, the number of weeks she selected would not change her choice of extended parental benefits to standard parental benefits.

[20] The Tribunal has previously overturned some cases regarding parental benefit election on appeal. But, the Federal Court and Federal Court of Appeal have now made precedent-setting decisions that I must follow when deciding this appeal.⁸

[21] Regrettably, I find the Appellant cannot be successful in her appeal. The Courts have said the parental benefit election (choice) made on the application for EI benefits is the election and it cannot be changed after parental benefits are paid to either parent. And, the law is clear once parental benefits are paid on a claim, be it to the non-birth

⁸ See *Karval v Canada (Attorney General)*, 2021 FC 395; *Canada (Attorney General) v Hull*, 2022 FCA 82; and *Canada (Attorney General) v Variola*, 2022 FC 1402. This is how I refer to the court cases containing principles the law requires me to apply to the circumstances of this appeal.

parent or the birth parent, the decision between standard or extended parental benefits is final and cannot be changed.

[22] This means that the Appellant's election of extended benefits cannot be changed.

[23] While I recognize the impact the Commission's decision has on the Appellant and her family, there is no part of the law that allows me to consider that as relevant to this decision.

Conclusion

[24] As tempting as it may be in some cases (and this may well be one), I am not permitted to re-write the law or to interpret it in a manner that is contrary to its plain meaning.⁹ I must follow the law and render decisions based on the relevant legislation and precedents set by the courts.

[25] The appeal is dismissed.

Raelene R. Thomas
Member, General Division – Employment Insurance Section

⁹ *Canada (Attorney General) v. Kneé*, 2011 FCA 301.