



Citation: *SS v Canada Employment Insurance Commission*, 2025 SST 401

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

## **Decision**

**Appellant:** S. S.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (684161) dated October 24, 2024  
(issued by Service Canada)

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**Tribunal member:** Angela Ryan Bourgeois

**Type of hearing:** Videoconference

**Hearing date:** December 5, 2024, and December 18, 2024

**Hearing participant:** Appellant

**Decision date:** January 2, 2025

**File number:** GE-24-3705

## Decision

[1] The appeal is dismissed. The General Division does not agree with the Appellant.

[2] The Appellant has not shown that she is entitled to additional weeks of Employment Insurance (EI) regular benefits for seasonal workers.

## Overview

[3] The Appellant says that she qualifies for additional weeks of EI regular benefits because she is a seasonal worker residing in the EI Economic Region of Newfoundland/Labrador.<sup>1</sup>

[4] The Canada Employment Insurance Commission (Commission) says that she isn't entitled to additional weeks because she doesn't meet the conditions set out in the *Employment Insurance Regulations* (EI Regulations).<sup>2</sup>

[5] The Appellant argues that she has worked seasonally all her working life and if she doesn't meet the conditions, it's because she was forced to go on CERB.<sup>3</sup>

[6] I must determine if the Appellant is entitled to additional weeks for seasonal workers.

## Issue

[7] Is the Appellant entitled to additional weeks of EI regular benefits for seasonal workers?

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<sup>1</sup> See section 77.992 of the *Employment Insurance Regulations* (EI Regulations).

<sup>2</sup> See page GD4-1. The decision letter issued under section 112 of the *Employment Insurance Act* (EI Act) is found on page GD3-41.

<sup>3</sup> See her notice of appeal on page GD2-6.

## Analysis

[8] The Appellant says that she should get extra weeks of EI regular benefits because she is a seasonal worker. She says she meets the conditions under the law to get the extra weeks.

[9] The Commission says that the Appellant isn't entitled to the extra weeks because she doesn't meet the conditions under Pilot Project 21.

### – Pilot Project 21

[10] The Commission states that it applied Pilot Project 21. Pilot Project 21 is a pilot project established to test the effectiveness of a mechanism that targets those working seasonally in certain EI Economic Regions. It was enacted by section 77.992 of the EI Regulations.

[11] Pilot Project 21 relates only to claimants whose benefit periods (anchor claims) were established between August 4, 2018, and September 25, 2021. After that, the provisions for seasonal workers were incorporated into the *Employment Insurance Act* (EI Act). So, for those claimants with benefit periods starting from September 26, 2021, like the Appellant, the provisions of section 12(2.3) of the EI Act apply.

[12] This means that I must consider section 12(2.3) of the EI Act, not Pilot Project 21. For the Appellant's purposes, Pilot Project 21 is only relevant in that section 12(2.3)(b) of the EI Act refers to certain parts of that pilot project.

### – Additional weeks for seasonal workers

[13] The Appellant's benefit period commencement date is July 21, 2024.

[14] Claimants having benefit periods with this commencement date are entitled to extra weeks of EI regular benefits for seasonal workers if they meet the conditions under one of two sections of the law. They can qualify under section 12(2.3)(a) of the EI Act or they can qualify under section 12(2.3)(b) of the EI Act.

[15] A claimant may qualify for the extra weeks if they meet the conditions set out in section 12(2.3)(a) of the EI Act. These are the conditions: <sup>4</sup>

- a) First, she must have a benefit period beginning between September 26, 2021, and October 24, 2026, inclusive. The Appellant meets this condition because her benefit period commencement date is July 21, 2024. I'll call this her anchor claim.
- b) Next, she must be ordinarily resident in a region described in Schedule VI. She meets this condition because she lives in the EI Economic Region of Newfoundland/Labrador.<sup>5</sup>
- c) In the 260 weeks (5 years) before the anchor claim, she must have established at least three benefit periods during which regular benefits were paid or payable. She meets this condition because she has these claims in that period:
  - i. July 10, 2022
  - ii. October 3, 2021
  - iii. October 4, 2020
  - iv. December 29, 2019
- d) At least two of these claims must have begun around the same time of year as the anchor claim. This means that they must have started within 8 weeks of July 21.<sup>6</sup> The Appellant doesn't meet this condition because only one claim, the July 10, 2022, claim had a benefit period commencement date within 8 weeks of July 21.

[16] Since the Appellant doesn't meet all the conditions of section 12(2.3)(a), she doesn't qualify for the extra weeks under this section.

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<sup>4</sup> See section 12(2.3) to (2.5) of the EI Act for the exact wording.

<sup>5</sup> See Schedule VI, section 6, Newfoundland/Labrador.

<sup>6</sup> The law says that "starting at around the same time of year" means within eight weeks – eight weeks before or eight weeks after the anchor claim date. See section 12(2.5) of the EI Act.

[17] So, now I will look at whether she qualifies for extra weeks under section 12(2.3)(b) of the EI Act.<sup>7</sup> This section is meant to negate the impact of changes to seasonal claiming patterns caused by the temporary measures put in place during the COVID-19 pandemic.<sup>8</sup> If a claimant doesn't meet the conditions under section 12(2.3)(a) because their benefit period start dates shifted due to the temporary COVID-19 provisions, they can still qualify as a seasonal claimant if they previously qualified under Pilot Project 21. Some of the provisions of Pilot Project 21 are incorporated into section 12(2.3)(b).

[18] The conditions to qualify under section 12(2.3)(b) of the EI Act are:

- a) As above, she must have a benefit period beginning between September 26, 2021, and October 24, 2026, inclusive. The Appellant meets this condition because her benefit period commencement date is July 21, 2024.
- b) Next, she must be ordinarily resident in a region described in Schedule VI. She meets this condition because she lives in the EI Economic Region of Newfoundland/Labrador.
- c) She must have established a benefit period commencing between August 5, 2018, and September 25, 2021. The Appellant meets this condition because she established claims on December 29, 2019, and October 4, 2020.
- d) She must have been ordinarily resident in a region described in Schedule I set out in Schedule II.92 when the benefit periods in paragraph c above were established. The Appellant doesn't meet this condition because at the time she established the December 2019 and October 2020 benefit periods she was ordinarily resident in the EI Economic Region of St. John's. This region is not listed in the schedule, so she doesn't meet this condition. Since she doesn't meet

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<sup>7</sup> See section 12(2.3)(b) of the EI Act.

<sup>8</sup> See [Canada Gazette, Part 2, Volume 157, Number 26: Regulations Amending the Employment Insurance Regulations \(Pilot Project No. 22\)](#). I discuss Pilot Project 22 below.

this condition, there is no need to assess the other requirements under section 12(2.3)(b).

[19] The Appellant doesn't meet the conditions set out in sections 12(2.3)(a) or (b) of the EI Act. So, she doesn't qualify for the extra weeks available to seasonal employees.

– **Pilot Project 22**

[20] Pilot Project 22 was established to test whether certain claimants who meet the conditions set out in section 12(2.3) of the EI Act require more additional weeks of benefits because of low unemployment rates.<sup>9</sup>

[21] Pilot Project 22 applies to claimants whose benefit period is established between September 10, 2023, and September 7, 2024, and who meet the conditions set out in section 12(2.3) of the EI Act.<sup>10</sup>

[22] I do not have to consider Pilot Project 22 because the Appellant does not meet the conditions in section 12(2.3) of the EI Act.

– **The Appellant's arguments**

[23] The Appellant says that the start dates of her claims were outside her control. She provided copies of her records of employment that show she was usually laid off in July, and that she claimed benefits from July onward.

[24] The Appellant points out:

- When she applied for benefits in July 2020, she wanted EI regular benefits not EI Emergency Response Benefits (EI ERB).
- She didn't file a claim in October 2020. The Commission agrees with this. It said that this claim was started automatically when EI ERB ended.

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<sup>9</sup> This pilot project is established under section 77.993 of the EI Regulations.

<sup>10</sup> The table showing the weeks of benefit entitlement is not Schedule V as set out in section 12(2.3) but is that shown in Schedule II.94 of the EI Regulations.

- Her next claim started in October 2021 only because she didn't know that she could cancel a benefit period. When she filed her claim in July 2021, she didn't know that it was a renewal claim. In the past, her weeks of entitlement ended before she claimed benefits again in July.

[25] The Appellant thought the benefits she received from July 2020 until the end of her 2021 benefit period were EI ERB. She thought this because she was paid \$500. I explained that EI ERB ended on October 3, 2020, and although the payment amount continued to be \$500, like EI ERB, she was actually paid EI regular benefits.

[26] The Appellant has proven that she works seasonally and that she is usually laid off in July. But it isn't just a matter of working seasonally, to get the extra weeks of EI benefits, she must still meet the conditions set out in the law.

[27] I appreciate the Appellant's arguments. I agree that the temporary measures put in place during the COVID-19 pandemic affected the start dates of her benefit periods. The government enacted measures to cope with this issue. Unfortunately, these measures don't help the Appellant because based on where she was living before, she didn't qualify as a seasonal worker.

[28] The law is clear that the extra weeks of EI benefits aren't available to all seasonal workers. Only seasonal workers who meet the conditions set out in the law get the extra weeks. Neither the Tribunal nor the Commission has the power or discretion to look at the reasons why a claimant doesn't meet the conditions. We can only look at whether she meets the conditions. Since the Appellant doesn't meet the conditions, she isn't entitled to extra weeks of EI benefits.

## **Conclusion**

[29] The Appellant doesn't meet the conditions to get the extra weeks available to some seasonal workers.

[30] The appeal is dismissed.

Angela Ryan Bourgeois  
Member, General Division – Employment Insurance Section