



Citation: *MS v Canada Employment Insurance Commission*, 2025 SST 488

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

## **Decision**

**Appellant:** M. S.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (715727) dated February 28, 2025  
(issued by Service Canada)

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**Tribunal member:** Angela Ryan Bourgeois

**Type of hearing:** Teleconference

**Hearing date:** April 2, 2025

**Hearing participant:** Appellant

**Decision date:** April 3, 2025

**File number:** GE-25-941

## Decision

[1] The appeal is dismissed. The General Division disagrees with the Appellant. The Canada Employment Insurance Commission (Commission) cannot pay him Employment Insurance (EI) parental benefits after January 11, 2025.

## Overview

[2] EI parental benefits are benefits payable to a claimant to care for their newborn child.<sup>1</sup>

[3] After the birth of his third child, the Appellant applied for EI parental benefits. This is the first time he has applied for this type of benefit. He wants EI parental benefits for the five weeks he took off work to care for his baby.

[4] The Commission decided that it couldn't pay him benefits because the weeks the Appellant took off work fall outside the parental benefit period.

[5] The *Employment Insurance Act* (EI Act) says that parental benefits can be paid beginning with the week the baby is born and ending 52 weeks later.<sup>2</sup> This is called the parental benefit period. The EI application form explains that parental benefits are payable only during this period.<sup>3</sup>

[6] The Appellant argues that Service Canada didn't give him the right information. He called Service Canada before his parental leave started to make sure everything was in order. He was assured that it was. He wouldn't have taken the leave if he'd known he wasn't entitled to parental benefits. When he learned of the Commission's decision, it was too late for him to arrange childcare and return to work. This situation has caused him financial difficulties. To make matters worse, without the EI benefits, he'll have to return the top up he received from his employer.

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<sup>1</sup> See section 23(1) of the EI Act.

<sup>2</sup> See section 23(2) of the *Employment Insurance Act* (EI Act).

<sup>3</sup> See page GD3-9.

[7] The Commission recognizes that this is an unfortunate situation.<sup>4</sup> It acknowledges that it didn't send the Appellant a decision letter; the Appellant learned about the Commission's negative decision through his My Service Canada account. It says that no one should have told the Appellant he would be paid parental benefits before it received his record of employment and processed his application. The record of employment wasn't received until January 24, 2025, after the Appellant's leave started, so that was the earliest a decision could be made. It argues that regardless of any misinformation or lack of information, it can't pay the Appellant benefits contrary to the EI Act.

## Issue

[8] Can the Commission pay the Appellant EI parental benefits from January 12, 2025?

## Analysis

### – The Appellant's circumstances

[9] The Appellant's baby was born on January 10, 2024.

[10] The baby's other parent opted for and received EI *standard* parental benefits before the Appellant applied for benefits.<sup>5</sup> This means that the rules relating to EI *standard* parental benefits apply to the Appellant.<sup>6</sup>

[11] The Appellant applied for EI parental benefits on December 17, 2024.<sup>7</sup> His parental leave started on January 12, 2025.<sup>8</sup>

### – What the law says

[12] The law says that:

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<sup>4</sup> See page GD4-3.

<sup>5</sup> See page GD3-30.

<sup>6</sup> See section 23(1.1) to 23(1.3) of the EI Act.

<sup>7</sup> See page GD3-16.

<sup>8</sup> See page GD3-19 and page GD3-20.

- EI parental benefits are payable only during a specific period called a benefit period.
- The benefit period for standard parental benefits is the 52 weeks from the week when the child is born.<sup>9</sup>
- The benefit period can be extended when the child spends time in the hospital or when a claimant's parental leave is delayed or interrupted under the *National Defence Act*.<sup>10</sup>

– **What this means for the Appellant**

[13] The benefit period for EI standard parental benefits relating to the Appellant's child begins on Sunday, January 7, 2024, the start of the week the baby was born, and ends 52 weeks later, on Saturday, January 11, 2025. EI benefits are payable only during this period.

[14] The Commission can't pay the Appellant parental benefits from January 12, 2025, because parental benefits could only be paid up to January 11, 2025.

[15] The benefit period can't be extended beyond January 11, 2025, because the Appellant doesn't meet any of the conditions for an extension. His child wasn't hospitalized, and his leave wasn't delayed or interrupted because he was directed to return to duty in the Canadian Forces.

– **The Commission's conduct**

[16] The Appellant says that he wasn't treated very well. He wasn't given the right information and wasn't properly informed of the Commission's decision. He argues that the Commission should assume the financial burden of its mistakes, not him. He did his due diligence by contacting Service Canada before his leave started. He wasn't given a chance to make an informed decision because Service Canada gave him the wrong

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<sup>9</sup> See section 23(2) of the EI Act. There is a different payable period for extended parental benefits. This isn't relevant to this appeal because based on the selection made by the other parent, who applied for and received benefits first, the Appellant could only receive standard parental benefits.

<sup>10</sup> See sections 23(3) and 23 (3.01) of the EI Act.

information. He wants me to say that the Commission must pay him parental benefits for the weeks of his leave.

[17] I understand the Appellant's arguments and his frustration. Service Canada didn't tell him that he had to take his leave within a specific period. He may have made different choices if he had understood this.

[18] Despite these things, I can't direct that EI parental benefits be paid outside the benefit period. The law is clear that EI standard parental benefits can only be paid during the 52 weeks after the child is born. I can't change the benefit period set out in the law, and I can't extend a benefit period when the conditions set out in the EI Act aren't met. I am bound to follow the law set by the Federal Court of Appeal. That court says that misinformation by the Commission is no basis for relief from the operation of the EI Act.<sup>11</sup>

## **Conclusion**

[19] The Appellant can't be paid EI parental benefits after January 11, 2025.

[20] The appeal is dismissed.

Angela Ryan Bourgeois  
Member, General Division – Employment Insurance Section

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<sup>11</sup> See *Canada (Attorney General) v Shaw*, 2002 FCA 325.