



Citation: *XW v Canada Employment Insurance Commission*, 2025 SST 760

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: X. W.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (708869) dated January 23, 2025
(issued by Service Canada)

Tribunal member: Gary Conrad

Type of hearing: In writing

Decision date: July 23, 2025

File number: GE-25-2023

Decision

[1] The appeal is dismissed.

[2] The Appellant cannot receive Employment Insurance (EI) benefits because she does not have enough hours of insurable employment in her qualifying period, and her qualifying period cannot be extended to allow her to access more hours of insurable employment.

Overview

[3] The Appellant applied for EI maternity and parental benefits in November 2024.

[4] The Canada Employment Insurance Commission (Commission) determined that, since the Appellant was applying for special benefits, she could qualify with 600 hours of insurable employment in her qualifying period. Unfortunately, despite extending her qualifying period all the way back to March 2023, they determined the Appellant only has 284 hours of insurable employment in her extended qualifying period, which is not enough to get benefits.

[5] The Appellant says that her qualifying period should be extended up to a total of 97 weeks, as she was sick and unable to work for a large portion of her qualifying period.

[6] She says if her qualifying period is extended up to 97 weeks, she will have 731.5 hours of insurable employment in her qualifying period, which is far more than the 600 hours she needs to qualify for her maternity and parental benefits.

Matter I have to consider first

Form of hearing

[7] The Appellant asked for her hearing to be conducted in writing,¹ and hearings are normally held in the form chosen by the Appellant.

[8] So, being mindful of the Appellant's choice, and the (non-binding) Appeal Division decisions which state the importance of following the Appellant's choice of hearing,² and that a hearing in writing is procedurally fair to an appellant,³ all reasoning I find persuasive, I proceeded in writing.

Issue

[9] Does the Appellant have enough hours to qualify for EI benefits?

Analysis

Qualifying for EI benefits

[10] Just because the Appellant applied for EI benefits does not mean she will automatically get them. It is up to the Appellant to prove that she meets the requirements to qualify for benefits.

[11] One of the requirements the Appellant needs to fulfill to qualify for benefits is to have a certain number of hours of work⁴ in her qualifying period. The number of hours of work the Appellant needs is based on the unemployment rate in her region when she applied for benefits.

¹ GD02-35

² *SB v Canada Employment Insurance Commission*, 2024 SST 1145

³ *WL v Canada Employment Insurance Commission*, 2024 SST 872 at paras 24 and 25.

⁴ When I say 'work' I am referring to hours of insurable employment.

Rate of unemployment and hours required to qualify

[12] The Commission says the Appellant lives in the EI Economic region of Ottawa, and the rate of unemployment for the week prior to the start of her benefit period is 6.1%, which means she needs 665 hours of work in her qualifying period to get EI benefits.⁵

[13] I find I agree with the Commission's submissions.

[14] I accept as fact that the Appellant resided in the EI Economic Region of Ottawa as the Appellant's address on her application says she lives in Ottawa,⁶ and she has not disputed as such.

[15] The regional rate of unemployment applicable to the Appellant is the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week her benefits period starts.⁷

[16] To put the above into plain English, I need the unemployment rate for the Appellant's economic region for the week **prior** to the week her benefit period would start. Since her benefit period would start on November 3, 2024,⁸ I need the unemployment rate for the week starting October 27, 2024.

[17] According to the information produced by Statistics Canada, the unemployment rate for the period prior to the start of the Appellant's benefit period is 6.1%.⁹

[18] The law says that with an unemployment rate of 6.1% the Appellant requires 665 hours of insurable employment in her qualifying period to qualify for benefits.¹⁰

⁵ GD03-22

⁶ GD03-5

⁷ See section 17(1)(a) of the *Employment Insurance Regulations* and *Canada (Attorney General) v Jewett*, 2013 FCA 243 at paras 11 and 12

⁸ See GD04-1, which says that the qualifying period runs back from November 2, 2024. Since the qualifying period starts the day prior to the benefit period start date, the Commission is saying the Appellant's benefit period would start on November 3, 2024.

⁹ GD03-22

¹⁰ Section 7(2) of the *Employment Insurance Act*

Qualifying period

[19] Generally, the qualifying period is the 52 weeks prior to the start of the benefit period. In the Appellant's situation that would be counting backwards from November 2, 2024.

[20] However, it is possible to extend a qualifying period. One of the circumstances that allows for a qualifying period to be extended is if the Appellant was incapable of working due to illness, injury, quarantine or pregnancy, during her qualifying period.¹¹ The qualifying period can be extended for each week the Appellant was unable to work due to illness, , injury, quarantine or pregnancy during her qualifying period, but the maximum length of a qualifying period is 104 weeks.¹²

[21] The Appellant says that her benefit period should be extended to 97 weeks total, from December 25, 2022, to November 2, 2024, due to an inability to work because of illness.¹³

[22] The Commission says that the Appellant's qualifying period can be extended due to illness, but not for as long as the Appellant would like. The Commission says the Appellant's extended benefit period should run from March 19, 2023, to November 2, 2024.¹⁴

[23] I disagree with both the Appellant and the Commission. I find the Appellant's qualifying period cannot be extended at all.

[24] The Appellant's qualifying period, with no extensions, would be the 52 weeks prior to the start of her benefit period, so from November 5, 2023, to November 2, 2024. This period can be extended for each week within this period that the Appellant was unable to work due to illness, injury, quarantine or pregnancy.

¹¹ Section 8(2)(a) of the *Employment Insurance Act*

¹² Section 8(7) of the *Employment Insurance Act*

¹³ RGD02-5. The Appellant has mentioned other periods of time; 104 weeks in her notice of appeal and request for reconsideration, and 100 weeks in additional documentation (GD06), but I mention the 97 weeks as that is the most recent number she has mentioned.

¹⁴ GD08-2

[25] The Appellant says that she got pregnant in May 2024, on a family visit to China. She says her pregnancy was classified as high-risk. At the end of her leave of absence from work, in July 2024, she spoke with her doctor who recommended she should try to avoid long distance flights and also said that staying in China would reduce the risk of miscarriage. The Appellant requested an extension of her unpaid leave, which she was granted, but she was not allowed to work in mainland China due to her company's confidentiality policies.¹⁵

[26] The law says that in order to extend a qualifying period due to being unable to work due to a pregnancy, the pregnancy would need to render the Appellant incapable of performing the duties of her regular or usual employment, or of other suitable employment.¹⁶ I find, on a balance of probabilities, the Appellant has failed to prove this.

[27] The information from the hospital in China, dated June 21, 2024, does label the Appellant's pregnancy as high risk, but it says absolutely nothing about the Appellant being unable to work at either her regular job or any other suitable employment.¹⁷ In fact, there are no special precautions of any sort mentioned for the Appellant relating to her pregnancy.

[28] I find simply having the words "high risk" does not provide sufficient evidence to prove to me, on a balance of probabilities, that the Appellant's pregnancy rendered her incapable of performing the duties of her regular or usual employment, or of other suitable employment.

[29] Also, in the Appellant's statements about her pregnancy, she says nothing about her doctor(s) telling her she cannot work, or should not work, while pregnant. She only says that she was told to try her best to avoid long-distance flights.¹⁸

[30] So, since the Appellant has not proven, on a balance of probabilities, that her pregnancy rendered her incapable of performing the duties of her regular or usual

¹⁵ GD03-29 and 30

¹⁶ Section 41(2) of the *Employment Insurance Regulations*.

¹⁷ GD03-52 and 53.

¹⁸ GD02-2, GD03-29 and GD06-2.

employment, or of other suitable employment, her qualifying period cannot be extended for this reason.

[31] The Appellant also says that she was undergoing treatment in China due to illness from September 18, 2023, to December 1, 2023, and that she was unable to work while undergoing this treatment. She says the fact she was looking for temporary work serves as further evidence that her illness prevented her from performing her previous high pressure work duties; she argues this allows her qualifying period to be extended.¹⁹

[32] I disagree with the Appellant. I find her qualifying period cannot be extended due to the treatment she was undergoing in China.

[33] It is true that the note from the Traditional Chinese Medicine Hospital, dated November 27, 2023, says that the Appellant should avoid engaging in high-pressure work during the treatment, but it does not say she cannot work at all.²⁰ Simply having to avoid **a type** of work does not mean the Appellant is incapable of working. None of the other information from this treatment says anything about her not being able to work.²¹

[34] Further, I find the Appellant saying she was looking for part-time work²² also supports that she was able to work.

[35] So, since the law requires an incapability to work, not simply having some limitations on the type of work a person can do, in order to extend the qualifying period, I find the Appellant's qualifying period cannot be extended due to her receiving treatment while in China.

¹⁹ RGD02-4 and 5

²⁰ RGD02-6

²¹ GD06-7 to 12.

²² RGD02-4 and 5 and GD06-3

[36] The Appellant has offered other medical information to support periods she could not work, but I find all of those periods fall outside of her qualifying period of November 5, 2023, to November 2, 2024, so they cannot be used to extend her qualifying period.²³

[37] I also do not see any evidence to support the Appellant's qualifying period could be extended for any other reason.²⁴ So, this means the Appellant's qualifying period is from November 5, 2023, to November 2, 2024.

Hours of work within the qualifying period

[38] The Commission says the Appellant has zero (0) hours of work in her qualifying period of November 5, 2023, to November 2, 2024.

[39] I accept as fact the Appellant has zero (0) hours of work in her qualifying period of November 5, 2023, to November 2, 2024, as I see nothing to suggest the Commission is wrong, the Appellant's Record of Employment says her last day of work is July 28, 2023,²⁵ and the Appellant says she has not been employed at all since her unpaid leave of absence started on August 2023.²⁶

Does the Appellant qualify?

[40] Unfortunately for the Appellant, with an unemployment rate of 6.1% she requires 665 hours of insurable employment in her qualifying period, but she has zero (0) hours, so she does not qualify for benefits.

The exception

[41] Since the Appellant is applying for maternity and parental benefits, which are considered special benefits,²⁷ and since the Appellant does not qualify for benefits the

²³ GD02-9 to 22, GD03-36 to 49, and GD06-3.

²⁴ Section 8(2) of the *Employment Insurance Act*

²⁵ GD03-20

²⁶ GD02-2

²⁷ See section 12(3) of the *Employment Insurance Act* which lists maternity and parental benefits as special benefits.

regular way,²⁸ she can get special benefits if she has at least 600 hours of insurable employment in her qualifying period.

[42] I find the Appellant is unable to take advantage of this exception though, as she has zero (0) hours of insurable employment in her qualifying period of November 5, 2023, to November 2, 2024, and she needs 600.

Conclusion

[43] The appeal is dismissed.

[44] The Appellant's qualifying period cannot be extended, and she does not have enough hours of insurable employment in her qualifying to qualify for EI benefits, no matter whether I look at qualifying the regular way or with the exception for special benefits.

Gary Conrad

Member, General Division – Employment Insurance Section

²⁸ The regular way being having the 665 hours in her qualifying period as section 7 of the *Employment Insurance Act* requires, since the unemployment rate applicable to the Appellant was 6.1%.