Citation: *DL v Canada Employment Insurance Commission*, 2025 SST 898

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	D. L.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated July 28, 2025 (GE-25-2039)

Tribunal member:	Solange Losier
Decision date:	August 27, 2025
File number:	AD-25-546

Decision

[1] Leave (permission) to appeal is refused. D. L.'s appeal will not proceed.

Overview

[2] D. L. is the Claimant in this case. He was working in Kenora, Ontario and moved to X, Manitoba. He applied for Employment Insurance benefits on October 30, 2024.

[3] The Canada Employment Insurance Commission (Commission) decided that a benefit period could not be established for the Claimant because he didn't have enough insurable hours of employment during the qualifying period.[1]

[4] The General Division concluded the same and dismissed his appeal. It found that he couldn't establish a benefit period on October 27, 2024, because he didn't have enough insurable hours of employment.[2] There has been some procedural history with this file.[3]

[5] The Claimant is now asking for permission to appeal. He argues that the General Division made errors.[4]

[6] I am denying the Claimant's request for permission to appeal because his arguments don't show that he has an arguable case the General Division made any reviewable errors. As a result, his appeal has no reasonable chance of success.[5]

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[1] See Commission's initial and reconsideration decision at pages GD3-28 to GD3-29 and GD3-38.
[2] See General Division decision at pages ADN1A-1 to ADN1A-17.
[3] This file was first heard by the General Division (File GE-25-613, decision issued April 22, 2025). The General Division allowed the Claimant's appeal and determined that he had enough hours of insurable employment to establish a benefit period. The Commission appealed to the Appeal Division, and it found that the General Division made legal and jurisdictional errors (File AD-25-360, issued June 26, 2025). The matter was returned to the General Division for reconsideration. The current matter under appeal is the General Division's subsequent decision (File GE-25-2039, issued July 28, 2025).
[4] See Application to the Appeal Division at pages ADN1-1 to ADN1-10.
[5] See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

Issue

[7] Is there an arguable case that the General Division made any reviewable errors when it decided that the Claimant's benefit period could not be established?

Analysis

[8] The law says that I can consider four types of errors, and they include, legal errors, factual errors, jurisdictional errors, or an unfair procedure.[6]

[9] I can only give the Claimant permission to appeal if there's an "arguable case" the General Division made an error that her appeal might succeed.[7] The appeal has to have a reasonable chance of success.[8]

[10] The Claimant set out his reasons for appealing and I have considered them.[9] I've reviewed the General Division decision and the file record.

[11] For the following reasons, I am not giving the Claimant permission to appeal.

I am not giving the Claimant permission to appeal

– The Claimant argues that the General Division made reviewable errors

[12] The Claimant argues that the General Division made the following errors.[10]

[13] First, he argues that the General Division erred when it decided the number of hours he had. He refers to the Canada Revenue Agency (CRA) ruling that determined he had 611 hours of insurable employment from his job.[11] Because of that, the Claimant says he was technically eligible for benefits because he was a resident of Kenora,

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[6] See section 58(1) of the DESD Act.
[7] See *Osaj v Canada (Attorney General),* 2016 FC 11, at paragraph 12 and section 56(1) of the DESD Act.
[8] See section 58(2) of the DESD Act.
[9] See pages ADN1-3 to ADN1-4.
[10] See pages ADN1-3 to ADN1-4.
[11] See Canada Revenue Agency (CRA) ruling at pages RGD1-1 to RGD1-3.

Ontario during the week of October 20, 2024, and met the hours requirement for the region of Northern Ontario (which was 595 hours).[12]

[14] Second, he disagrees with the General Division's interpretation of his "ordinary residence." He argues that living in one place for 3 months should take precedence as his usual place of residence versus the 4 days of the week he lived in X, Manitoba. He says that a mid-week move should not be interpreted as his usual place of residence. And he explains that he was planning to commute from X, Manitoba to Kenora, Ontario during the winter months so that's why he signed a month-to-month lease.

[15] The Claimant's arguments point to the General Division making legal errors and factual errors, so that's what I will focus on.

– The General Division concluded that the Claimant couldn't establish a benefit period because he didn't have enough hours of insurable employment

[16] The General Division concluded that the Claimant didn't have enough hours of insurable employment during the qualifying period to get benefits.[13] It made the following key factual findings:

- His last day of work was October 16, 2024, so the interruption of earnings occurred on October 23, 2024.[14]
- He applied for benefits on October 30, 2024, so his benefit period started on October 27, 2024.[15]
- The 52-week qualifying period ran from October 29, 2023, to October 26, 2024.[16]

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[12] See paragraph 84 of the General Division.
[13] See paragraph 52 of the General Division decision.
[14] See paragraphs 21 and 55 of the General Division decision.
[15] See paragraphs 4, 23–25, and 29 of the General Division decision.
[16] See paragraphs 43–46 of the General Division decision and section 8(1) of the *Employment Insurance Act* (EI Act).

- He was ordinarily a resident in X, Manitoba during the week of October 27, 2024 (when his benefit period started).[17]
- At the time, the rate of unemployment in the region of Southern Manitoba was 6.6%.[18]
- He needed 665 hours of insurable employment but only had 611 hours during the qualifying period.[19]
- His benefit period could not start on October 13, 2024 or October 20, 2024.[20]
- So, he hasn't shown that he has enough insurable hours to qualify for benefits.[21]

– **There is no arguable case the General Division erred when it concluded the benefit period had to start on October 27, 2024**

[17] I see no arguable case that the General Division made any factual errors or legal errors when it concluded that his benefit period started on October 27, 2024 (and not, October 13, 2024, or October 20, 2024). Let me explain.

[18] Benefits are paid to insured person who qualified to receive them.[22] To get benefits, the person has to have an interruption of earnings from their employment and during their qualifying period has to have enough hours of insurable employment in relation to the regional rate of unemployment that applies to them.[23]

[19] The law says that a benefit period begins on the later of, the Sunday of the week in which the interruption of the earnings occurs, and the Sunday of the week in which the initial claim for benefits is made.[24]

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[17] See paragraphs 41–42 of the General Division decision.
[18] See *Employment Insurance Economic Region of Southern Manitoba* at pages GD3-24 to GD3-27.
[19] See paragraph 52 of the General Division decision.
[20] See paragraphs 53-76 and 77-92 of the General Division decision.
[21] See paragraphs 2 and 101 of the General Division decision.
[22] See section 7(1) of the EI Act.
[23] See section 7(2) of the EI Act.
[24] See section 10(1) of the EI Act.

[20] An interruption of earnings occurs when a person is laid off or separate from their job and has a period of seven or more consecutive days that they perform no work for that employer and get no earnings from that employment.[25]

[21] The General Division explained with reasons why it found that his benefit period had to start on Sunday, October 27, 2024.[26]

[22] The evidence shows that the Claimant's last day of work was October 16, 2024, so the interruption of earnings occurred seven days later, on October 23, 2024.[27]

[23] It also shows that he only made his application for benefits on October 30, 2024, so that means October 27, 2024, is the Sunday of the week in (which is the later of) when he made his initial claim.[28]

[24] The General Division also explained in detail why the benefit period couldn't start on October 13, 2024, or October 20, 2024.[29]

[25] It noted that if his benefit period started on October 13, 2024 (while he was in Kenora, Ontario—Northern Ontario region), he would have only had 587 hours and still wouldn't have enough hours in the qualifying period because some of his insurable earnings fell outside of it.[30]

[26] It also found that he was ordinarily resident of X, Manitoba (Southern Manitoba region) during the week of October 20, 2024, so he needed 665 hours, but didn't have enough hours. It relied on the CRA ruling which determined the number of hours he had obtained during his employment.[31]

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[25] See section 14(1) of the *Employment Insurance Regulations* (EI Regulations).
[26] See paragraphs 19–21, 25, 34, 37, 39 and 100 of the General Division decision.
[27] See pages GD3-21 and GD3-23.
[28] See application for benefits at pages GD3-3 to GD3-17.
[29] See paragraphs 53–76 and 77–92 of the General Division decision.
[30] See paragraphs 90–92 of the General Division decision.
[31] See paragraphs 47–51 of the General Division decision. The EI Act says that Canada Revenue Agency has the jurisdiction to decide the number of insurable hours of employment that a person has, see section 90(1)(d) of the EI Act.

[27] The General Division also relied on case law to support its position.[32] It explained that it couldn't disregard or override EI qualifying requirements and that it had to follow the law as written.[33] It also stated that it couldn't make any exceptions no matter how unique or compelling his circumstances were.[34]

[28] There is no arguable case that the General Division made any factual errors or legal errors.[35] Its key findings about the benefit period starting on October 27, 2024, are consistent with the evidence in the file. And it correctly cited the law and applied case law as well.

– **There is no arguable case that the General Division erred when it determined that the Claimant's region was Southern Manitoba**

[29] I see no arguable case that the General Division made any factual errors or legal errors when it concluded that the Claimant's region was Southern Manitoba.

[30] The law says that the hours that you need to qualify for benefits depends on the rate of unemployment in the region where you were ordinarily resident during the week that your benefit period started.[36]

[31] The General Division looked at the words "ordinarily resident" and acknowledged that it wasn't defined in the *Employment Insurance Act* (EI Act). It considered that the Tax Court of Canada determined that "ordinarily resident" is "held to mean residence in the course of the customary life of the person concerned, and it is contrasted with (different from) special or occasional or casual residence."[37]

[32] It also considered a Canadian Umpire Benefit (CUB) decision which said that the term "ordinarily resident" means your regular or customary place of residence.[38]

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[32] See paragraph 100 of the General Division decision.
[33] See *Canada (Attorney General) v Lévesque*, 2001 FCA 304 at paragraph 2 and *Canada (Attorney General) v Knee*, 2011 FCA 301 at paragraph 9.
[34] See *Pannu v Canada (Attorney General),* 2004 FCA 90 at paragraph 4.
[35] See section 58(1)(b)(c) of the DESD Act.
[36] See section 17(1.1)(a) of the EI Regulations.
[37] See paragraphs 37–38 of the General Division decision.
[38] See paragraph 39 of the General Division decision.

[33] The General Division interpreted the words “during the week” to mean that it refers to the entire period of that week, and not simply the start of the week.[39] It explained that if Parliament intended for it to mean the start of the week only, it would have adopted that language. It concluded that it needed to look at where the Claimant ordinarily resided for the majority of that week.[40]

[34] The Claimant testified before the General Division that he was ordinarily resident of Kenora, Ontario during the week of October 13, 2024, but said that he signed a lease for a place in X, Manitoba on October 15, 2024. He told the General Division that he ended up moving there around October 21, 2024, or “there or thereabouts.”[41]

[35] The General Division concluded that based on the facts before it and its interpretation that he was ordinarily resident in X, Manitoba during the week of October 27, 2024. It explained that he was living there from the start to the end of the week that his benefit period stated. It also noted that there was no evidence he was looking for work in Kenora, Ontario after he relocated to X, Manitoba.[42]

[36] The Claimant’s arguments amount to a disagreement with the General Division’s findings and outcome that a benefit period could not be established on October 27, 2024, and that he was an ordinary resident in X, Manitoba.

[37] The Appeal Division has a limited mandate, and it isn’t an opportunity to reargue the case for a different or more favourable outcome. I can’t reweigh the evidence or substitute with my view of the facts.[43]

[38] I acknowledge that the Claimant would rather that his benefit period start on an earlier date so that he could benefit from the lower number of hours requirement in Kenora, Ontario (Northern Ontario is a different region), but the General Division had to follow the law in this case. And that’s exactly what it did. His benefit period started on

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[39] See paragraph 35 of the General Division decision.
[40] See paragraph 36 of the General Division decision.
[41] See paragraph 55 of the General Division decision.
[42] See paragraphs 41–42 of the General Division decision.
[43] See *Tracey v Canada (Attorney General),* 2015 FC 1300 at paragraph 33.

October 27, 2024 and he was ordinarily resident of X, Manitoba. It had no discretion to vary the qualifying requirements.

[39] There is no arguable case that the General Division made any legal errors or factual errors.[44] It explained with reasons why it made the decision it did. There are no other reasons for giving the Claimant permission to appeal.

Conclusion

[40] Permission to appeal is refused. This means that the Claimant's appeal will not proceed. It has no reasonable chance of success.

Solange Losier
Member, Appeal Division

[44] See section 58(1)(b)(c) of the DESD Act.