



Citation: *CH v Canada Employment Insurance Commission*, 2025 SST 1115

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: C. H.

Respondent: Canada Employment Insurance Commission
Representative: Nikkia Janssen

Decision under appeal: General Division decision dated June 4, 2025
(GE-25-886)

Tribunal member: Glenn Betteridge

Decision date: July 3, 2025

File number: AD-25-423

Decision

[1] C. H. and the Canada Employment Insurance Commission agreed the General Division made an error. And they agree on how I should fix that error.

[2] I accept their agreement.

[3] The General Division didn't have the legal authority (in legal words, the jurisdiction) to decide her hours of insurable employment. So I'm sending her case back to the General Division to reconsider.

Background

[4] C. H. is the Claimant. She lost her job in July 2023. Her employer paid her a salary continuance through February 2024. Then she applied for EI regular benefits.

[5] The General Division dismissed her appeal, with modification. It found she was entitled to 36 weeks of benefits based on her 1,766 to 1,777 hours of insurable employment. It also found her benefits should start March 3, 2024, without being backdated, at \$661 per week. Finally, the General Division decided she has an overpayment.

[6] The Claimant argues the General Division got her insurable hours wrong, based on a new record of employment (ROE) she sent with her Application to the Appeal Division. She wants the Commission to recalculate her claim "from start to finish."

[7] I gave her permission to appeal the General Division decision. I found an arguable case the General Division didn't have the legal authority (jurisdiction) to decide how many hours of insurable employment she worked.

[8] The Claimant and the Commission (the parties) have now agreed to settle her appeal. And I have accepted their agreement.

The parties agree on the outcome of the appeal

[9] On July 2, 2025, I held a case conference that turned into a settlement conference. The parties agreed to settle the appeal on the following terms.

- The General Division didn't have the legal authority to decide the number of hours of insurable employment the Claimant worked. This counts as a jurisdictional error.
- The Appeal Division should fix this error by sending the Claimant's case back to the General Division to be reconsidered.

I accept the parties' agreement

[10] The General Division makes a jurisdictional error when it decides an issue it doesn't have the power to decide. Where there's a dispute about the number of insurable hours in an EI claim, the law gives the CRA—not the Commission or this Tribunal—the power to decide that issue.¹

[11] The General Division made a jurisdictional error when it decided the Claimant worked 1,766 to 1,777 hours of insurable employment (paragraphs 42 to 46). It arrived at that number based on the Claimant's testimony, one ROE, and the Commission's calculation.

[12] But the Claimant's insurable hours were in dispute. The employer filed three ROEs. They say different things about the number of hours she worked, and her insurable earnings. I listened to the hearing and reviewed the documents in the General Division file. It seems to me the Claimant and the Commission disagreed on the number of insurable hours she worked in her qualifying period.

¹ See section 64(3) of the *Department of Employment and Social Development Act*, and sections 90(1)(d) and 90.1 of the *Employment Insurance Act*.

[13] So, the General Division didn't have the jurisdiction to decide the Claimant's insurable hours. In the circumstances, the General Division should have asked the Commission to get a CRA ruling.

The parties will send new evidence to the General Division

[14] The Claimant is understandably frustrated with her employer for issuing multiple ROEs. She says this has complicated her claim and the Commission made mistakes. The Claimant's employer sent her a new ROE **after** the General Division made its decision. She included this new ROE with her Application to the Appeal Division.² She wants the Commission and General Division to consider this evidence when her appeal goes back to the General Division.

[15] The Commission says it will now ask the CRA for a ruling on the Claimant's insurable hours and insurable earnings. It will use the ruling to inform its position when the General Division reconsiders the case.

Conclusion

[16] I'm allowing the appeal and sending the case back to the General Division to be reconsidered.

[17] I want to thank the Claimant and the Commission for settling this appeal.

[18] Finally, if the Claimant hasn't sought legal advice, she might want to do that. She lives in Ontario, where community legal aid clinics provide **free legal services to eligible people** (www.legalaid.on.ca/legal-clinics/).

Glenn Betteridge
Member, Appeal Division

² See AD1-8.