Citation: *MH v Canada Employment Insurance Commission*, 2025 SST 1421

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

# Decision

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| **Appellant:** | M. H. |
| **Respondent:** | Canada Employment Insurance Commission |

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| **Decision under appeal:** | Canada Employment Insurance Commission reconsideration decision (757647) dated October 21, 2025 (issued by Service Canada) |

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| **Tribunal member:** | Susan Stapleton |
| **Type of hearing:** | **IN WRITING** |
| **Decision date:** | November 7, 2025 |
| **File number:** | GE-25-2975 |

## Decision

[1] The appeal is dismissed.

[2] The Appellant hasn't shown that he has worked enough hours to qualify for Employment Insurance (EI) regular benefits.

## Overview

[3] The Appellant applied for EI sickness benefits, but the Canada Employment Insurance Commission (Commission) decided that he hadn't worked enough hours to qualify.[1]

[4] I have to decide whether the Appellant has worked enough hours to qualify for EI sickness benefits.

[5] The Commission says that the Appellant doesn't qualify to receive EI sickness benefits. It says he doesn't have enough hours to qualify, because he needs at least 600 hours but has accumulated 0 hours in his qualifying period.

[6] The Appellant disagrees. He says he suffers from a serious chronic injury, and his condition prevented him from working or accumulating new insurable hours during his qualifying period. He says he understands that he doesn't have the required number of insurable hours, but there was nothing he could do. His injury and pain made it impossible for him to work. He wants his qualifying period to be extended because he has been unable to work. He asks for compassion and understanding, and that his appeal be considered fairly and with humanity. He has no income and receiving benefits would greatly help him manage his living expenses and medical needs.[2]

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[1] Section 7 of the *Employment Insurance Act* (Act) and section 93 of the *Employment Insurance Regulations* (Regulations) say that the hours worked have to be "hours of insurable employment." In this decision, when I say "hours," I am referring to "hours of insurable employment."
[2] See GD2-1, GD2-5.

# Matter I have to consider first

## The Appellant asked for his hearing to be held in writing

[7] The Appellant asked for his hearing to be held in writing. He said all of his medical and employment evidence is complete and clearly documented in the reports he has submitted. He said he believes the Tribunal can make a fair decision based on the written record.[3]

[8] I have considered whether holding the hearing in writing, meaning based only on the documents in the file, would be fair. Since this is what the Appellant asked for, and I believe I can make a decision fairly with the materials that are on the file, I decided that proceeding in writing is fair.

# Issue

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

# Analysis

## How to qualify for benefits

[10] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.[4] The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he qualifies for benefits.

[11] To qualify, you need to have worked enough hours within a certain time frame. This time frame is called the "qualifying period."[5]

[12] In general, the number of hours you need to have worked depends on the unemployment rate in your region.[6] The Commission says that under the general rule,

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[3] See GD2-3.
[4] See section 48 of the Act.
[5] See section 7 of the Act and section 93 of the Regulations.
[6] See section 7(2)(b) of the Act and section 17 of the Regulations.

the Appellant doesn't qualify for benefits, because he would need 560 hours to qualify for EI regular benefits, but he has 0 hours.[7] The Appellant agrees that he doesn't have the required number of insurable hours to qualify for regular EI benefits.[8]

[13] The law provides another way to qualify for special benefits, including sickness benefits. If you want special benefits, you can qualify if you have 600 or more hours.[9] But, this is only if you don't qualify under the general rule.[10]

[14] The parties agree that the Appellant doesn't have enough hours to qualify under the general rule, and there is no evidence that tells me otherwise. So, I accept this as fact. I find that the Appellant needs to have accumulated 600 hours in his qualifying period, to qualify for EI sickness benefits.

## The Appellant's qualifying period

[15] Your **benefit period** isn't the same thing as your **qualifying period**. It is a different time frame. Your **benefit period** is the time when you can receive EI benefits. The **qualifying period** is the timeframe where insurable hours are worked to establish a claim.

[16] In general, the **qualifying period** is the 52 weeks before your **benefit period** start date.[11] The Commission decided that the Appellant's qualifying period is the usual 52 weeks, from July 28, 2024, to July 26, 2025.[12]

## Extension of a qualifying period

[17] A qualifying period can be extended but only if certain conditions are met.

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[7] See GD4-2.
[8] See GD2-5.
[9] See section 93(1) of the Regulations. The hours need to be hours of insurable employment.
[10] Section 7 of the Act sets out the general rule.
[11] See section 8 of the Act.
[12] See GD4-2.

[18] The law says that a qualifying period can be extended where a claimant proves that they were not employed in insurable employment in a week during their qualifying period where they were:

- incapable of work because of a prescribed illness, injury, quarantine or pregnancy;
- confined in a jail, penitentiary or other similar institution and not found guilty of the offence for which the person was being held or any other offence arising out of the same transaction;
- receiving assistance under an employment support measure other than one referred to in paragraph 59(c); or
- receiving payments under a provincial law on the basis of having ceased to work because continuing to work would have resulted in danger to the person, her unborn child or a child whom she was breast-feeding.[13]

[19] The law places two limits on how far back the qualifying period can be extended. The qualifying period can't be extended to be more than 104 weeks.[14] And, if a claimant had a previous benefit period (in other words, a previous EI claim), the extended qualifying period can't start before the beginning of that claim.[15]

[20] The Appellant asked that his qualifying period be extended, because he has been unable to work since 2021 due to his medical condition. He submitted medical reports that show he was unable to work due to his medical condition throughout the entire qualifying period from July 28, 2024, to July 26, 2025.[16]

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[13] See section 8(2) of the Act.
[14] See section 8(7) of the Act.
[15] See section 8(1) of the Act. Under section 10(1) of the Act, a **benefit period begins** on the Sunday of the earlier of the week in which the person's earnings are interrupted, and the week a person made their initial claim for benefits.
[16] See GD2-17-41, GD3-29-38, GD5.

[21] I find that the evidence supports the maximum allowable extension of the Appellant's qualifying period, to July 30, 2023. This means his qualifying period is from July 30, 2023, to July 26, 2025.

## The hours the Appellant worked

[22] The Appellant doesn't dispute the number of hours he accumulated from July 30, 2023, to July 26, 2025. He agrees he hasn't accumulated any hours of insurable employment since March 2021.[17]

[23] There is no evidence that makes me doubt that the Appellant accumulated 0 hours from July 30, 2023, to July 26, 2025. I therefore find that he accumulated 0 hours from July 30, 2023, to July 26, 2025.

[24] Unfortunately, extending the Appellant's qualifying period doesn't help him. The law says that a qualifying period can not be extended to be more than 104 weeks.[18] Even with extending the Appellant's qualifying period to the maximum 104 weeks, he would still have no hours of insurable employment in his qualifying period, because he hasn't worked since March 2021. The law doesn't allow the Appellant's qualifying period to be extended to include the hours he worked in 2021 and earlier.

[25] The Appellant argues that his qualifying period should be extended so that he has enough hours to qualify for benefits. He feels he should be able to collect EI sickness benefits, because he has been, and still is, unable to work and he needs financial help.

[26] But the law says that the only hours that can be considered in determining eligibility for benefits are the hours that fall within a claimant's qualifying period. Hours that are outside of the qualifying period can't be used.[19] So, the Appellant's hours

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[17] See GD2-5.
[18] See section 8(7) of the Act.
[19] See *Haile* v *Canada (Attorney General)* 2008 FCA 193.

accumulated in his job 2021 and earlier can't be used in determining his eligibility for benefits.

## So, has the Appellant worked enough hours to qualify for benefits?

[27] No. The Appellant has accumulated 0 hours in his qualifying period, and he needed 600.

[28] I recognize that the Appellant feels he should be entitled to receive EI sickness benefits, because he has a chronic injury and can't work as a result. But entitlement to EI benefits isn't automatic. Like any insurance scheme, claimants must meet certain requirements to qualify for benefits. The Appellant doesn't meet the requirements, so he doesn't qualify for benefits. I sympathize with the Appellant's situation, but I cannot change the law.[20]

[29] While the Appellant may feel that this outcome is unjust, my decision is not based on fairness, but on consideration of the evidence before me and the application of the law. The Federal Court of Appeal says I can only follow the plain written meaning of the law. I can't rewrite the law or add new things to the law to make an outcome that seems fairer for the Appellant.[21] And the law is clear that claimants must accumulate the required hours within their qualifying period, to qualify for EI benefits. There is no room for discretion. In fact, the Federal Court has decided that even a person short by only one hour doesn't qualify for benefits.[22]

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[20] See *Pannu* v *Canada (Attorney General)*, 2004 FCA 90.
[21] See *Canada (Attorney General)* v *Knee*, 2011 FCA 301, at paragraph 9.
[22] See *Canada (Attorney General)* v *Lévesque*, 2001 FCA 304.

## Conclusion

[30] The Appellant doesn't have enough hours to qualify for EI regular benefits.

[31] This means that the appeal is dismissed.

Susan Stapleton
Member, General Division – Employment Insurance Section