



Citation: *MH v Canada Employment Insurance Commission*, 2026 SST 110

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

Decision

Appellant: M. H.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (734213) dated September 25, 2025 (issued by Service Canada)

Tribunal member: Gerry McCarthy

Type of hearing: Videoconference

Hearing date: February 4, 2026

Hearing participant: Appellant

Decision date: February 4, 2026

File number: GE-26-229

Decision

[1] The appeal is allowed.

[2] This means the Appellant was entitled to regular Employment Insurance (EI) benefits from July 2, 2021, to September 10, 2021.

Overview

[3] The Appellant applied for EI benefits on July 5, 2021, and established a renewal claim for EI regular benefits on June 27, 2021.

[4] The Appellant travelled Outside of Canada from June 24, 2021, to September 11, 2021.

[5] The Commission says the Appellant could be paid EI benefits until July 1, 2021, because they allowed for an exemption under the law. However, the Commission says the Appellant couldn't be paid EI benefits from July 2, 2021, to September 10, 2021, because he was Outside of Canada.

[6] The Commission says that additional information was required from the Appellant about his absence from Canada.

[7] The Appellant says he should be allowed an exemption from his disentitlement under the law. He says he was available for work while caring for his mother in New York City and Buffalo from July 2, 2021, to September 10, 2021. He also says while temporarily living in New York City and Buffalo he was willing to report personally to a Commission office in Canada if requested by the Commission.

Issue

[8] Was the Appellant entitled to EI benefits while Outside of Canada from July 2, 2021, to September 10, 2021?

Analysis

[9] A claimant isn't entitled to receive EI benefits for any period during which the claimant isn't in Canada except as prescribed in the regulations.¹

[10] The law says the onus is on a claimant to prove their absence Outside of Canada would meet the exceptions prescribed in the regulations.²

[11] The law says a claimant who isn't self-employed person and who resides Outside Canada isn't disentitled from receiving benefits for the sole reason of their residence Outside Canada if:

(a) the claimant resides temporarily or permanently in a state of the United States that is contiguous to Canada and

(i) is available for work in Canada, and

(ii) is able to report personally at an office of the Commission in Canada and does so when requested by the Commission.³

Was the Appellant entitled to EI benefits while Outside of Canada from July 2, 2021, to September 10, 2021?

[12] I find the Appellant was entitled to EI benefits while Outside of Canada from July 2, 2021, to September 10, 2021. I make this finding because the Appellant has proven he met the exemption listed in section 55(6)(a) of the EI regulations for the following reasons:

[13] First: The Appellant was residing temporarily in a state of the United States that was contiguous to Canada. Specifically, the Appellant initially travelled to New York City on June 24, 2021 (to care for his mother) and then travelled (by plane) with his mother

¹ Section 37(b) of the *Employment Insurance Act* (EI Act) and Section 55 of the *Employment Insurance Regulations* (EI Regulations).

² *Peterson v Canada (Attorney General)*, A-370-95.

³ Paragraph 55(6)(a) of the EI Regulations and subject to subsection 7 of the EI Regulations.

to Buffalo sometime in early August 2021. The Appellant then returned to Canada sometime after September 10, 2021.

[14] Second: I accept as credible the Appellant's testimony that he was temporarily residing in New York City and Buffalo from July 2, 2021, to September 10, 2021, because his statements were detailed and forthright. Specifically, the Appellant testified that on June 24, 2021, he initially travelled (by plane) to New York City to stay with his brother and help care for his mother who was sick. The Appellant further testified that sometime in early August 2021 he travelled with his mother (by plane) from New York City to Buffalo where he stayed with another brother and continued to care for his mother.

[15] Third: I accept the Appellant's testimony he was available for work while temporarily residing in New York City and Buffalo. I accept the Appellant's testimony on this matter because his statements were consistent and plausible. I wish to emphasize the Commission *hasn't* contested that the Appellant wasn't available for work while Outside Canada from September 2, 2021, to September 10, 2021.

[16] Fourth: I accept as credible the Appellant's testimony that he was willing to report personally to a Commission office in Canada when requested by the Commission. I accept the Appellant's testimony on this matter because his statements were forthright and plausible.

[17] In summary: The Appellant has proven he met one of the exceptions for being Outside of Canada from September 2, 2021, to September 10, 2021. As a result, the Appellant was entitled to EI benefits from September 2, 2021, to September 10, 2021.

Additional Submissions from the Commission

[18] In their representations, the Commission submitted that additional information was required from the Appellant about his absence from Canada (GD6-5). In my view, the Appellant has now provided additional information about his absence from Canada for the period in question. As mentioned, the Appellant testified that starting on June 24,

2021, he travelled (by plane) to New York City and stayed with his brother to help care for his sick mother. The Appellant then testified he travelled with his mother (by plane) from New York City to Buffalo where he stayed with another brother while continuing to care for his mother. The Appellant also testified that during the period in question (July 2, 2021, to September 10, 2021) he was temporarily residing in New York City and Buffalo and only returned to Canada after September 10, 2021.

Conclusion

[19] The Appellant was entitled to EI benefits from July 2, 2021, to September 10, 2021.

[20] The appeal is allowed.

Gerry McCarthy

Member, General Division – Employment Insurance Section