



Citation: *RM v Canada Employment Insurance Commission*, 2021 SST 738

## **Social Security Tribunal of Canada Appeal Division**

### **Decision**

<b>Applicant:</b>	R. M.
<b>Respondent:</b>	Canada Employment Insurance Commission
<b>Representative:</b>	Luc Belanger
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<b>Decision under appeal:</b>	General Division decision dated September 21, 2021 (GE-21-1514)
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<b>Tribunal member:</b>	Shirley Netten
<b>Decision date:</b>	December 6, 2021
<b>File number:</b>	AD-21-381

## Decision

[1] An extension of time and leave (permission) to appeal are granted, and the appeal is allowed in part. R. M. (the Claimant) is entitled to employment insurance (EI) benefits for the period March 16 to 22, 2021, inclusive.

## Overview

[2] While receiving EI benefits, the Claimant left Canada on March 15, 2021 to attend her father's funeral. She did not return until August 9, 2021. The General Division agreed with the Canada Employment Insurance Commission (Commission) that the Claimant was disentitled from benefits from March 16 to August 20, 2021, because she was not available for work for that period of time.

[3] The Claimant requested permission to appeal to the Appeal Division, stating that she was supposed to get the first seven days of benefits to attend her father's funeral.

## The parties agree on the outcome of the appeal

[4] At a settlement conference, the parties agreed that the appeal should be allowed to the extent that the Claimant was entitled to EI for the first seven days after her departure from Canada.<sup>1</sup> The Commission conceded that the General Division made an error of law for the period covered by the funeral exception.<sup>2</sup>

## I accept the proposed outcome

[5] First, I am accepting the Claimant's application even though it was filed two weeks after the 30-day deadline. This is because the language in the General Division decision was confusing, and the Claimant believed that the seven days of benefits had been allowed until she spoke with Service Canada.

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<sup>1</sup> The Claimant did in fact receive EI benefits for this period, but was later asked to pay them back.

<sup>2</sup> Under section 55(1)(b) of the *Employment Insurance Regulations*, a claimant can get EI benefits for seven consecutive days to attend a family member's funeral, despite being outside Canada, but subject to the availability requirement.

[6] I also accept the proposed outcome. The General Division failed to consider the Claimant's availability for the March 16 to 22, 2021 period in the context of the funeral exception.<sup>3</sup> In that context, the Claimant (who was looking for work while outside of Canada) ought not to have been disentitled from benefits for the seven-day period.

## **Conclusion**

[7] An extension of time and permission to appeal are granted, and the appeal is allowed in part. The Claimant is entitled to EI benefits for the period March 16 to 22, 2021, inclusive.

Shirley Netten  
Member, Appeal Division

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<sup>3</sup> See *HR v Canada Employment Insurance Commission*, 2021 SST 221, *Canada (Attorney General) v Elyoumni*, 2013 FCA 151