



Citation: *MS v Canada Employment Insurance Commission*, 2025 SST 42

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: M. S.

Respondent: Canada Employment Insurance Commission
Representative: Erin Tzvetcoff

Decision under appeal: General Division decision dated November 5, 2024
(GE-24-2338)

Tribunal member: Glenn Betteridge

Decision date: January 2, 2025

File number: AD-24-815

Decision

[1] I am allowing M. S.'s (Claimant) appeal.

[2] She and the Canada Employment Insurance Commission (Commission) agree the General Division made a legal error. They also agree on the outcome of the appeal.

[3] I accept their agreement. The Claimant isn't disentitled from getting benefits under section 50(1) of the *Employment Insurance Act* (EI Act).

Background

[4] The General Division disentitled the Claimant under section 50(1) of the EI Act. Because she didn't give the Commission a **valid** work permit and **valid** SIN, which it decided section 50(3) required her to do.

[5] In my leave to appeal decision, I said there was an arguable case the General Division misinterpreted section 50(3). Then the Commission conceded the General Division made this legal error.

The parties agree on the outcome of the appeal

[6] The parties asked for a decision based on the following terms, which they reviewed and agreed to in writing.¹

- The General Division made a legal error when it decided that section 50(3) of the EI Act specifically required the claimant to submit a work permit and valid SIN.
- The Appeal Division should make the decision the General Division should have made.
- The Appeal Division should decide the Claimant isn't disentitled to benefits under section 50(1) of the EI Act.

¹ See ADN5, ADN6, and ADN7.

I accept the parties' agreement on the error and outcome

[7] The General Division misinterpreted section 50(3) of the EI Act.

[8] Section 50(3) of the EI Act creates a procedural obligation in general terms: "A claim for benefits shall be made by completing a form supplied or approved by the Commission, in the manner set out in the instructions of the Commission."

[9] The General Division decided section 50(3) imposed a specific substantive obligation on the Claimant (paragraphs 49 to 51).

[10] The General Division's interpretation gave section 50(3) a force that went beyond its plain meaning in the context of section 50. That misinterpretation imposed an additional obligation the Claimant had to meet to get regular benefits. It required her to provide specific documents that proved a particular legal circumstance or status—a **valid** work permit and a **valid** SIN that showed she had a right to work in Canada.

[11] So, the General Division made a legal error by misinterpreting section 50(3) of the EI Act.

[12] The law gives me the power to remedy (fix) a General Division error. The parties say I should make the decision the General Division should have made. I agree.

[13] I accept the Commission's concession the Claimant isn't disentitled to benefits under section 50(1). She gave the Commission the immigration documents and SIN it requested to support her application for benefits.

No one challenged the General Division's finding the Claimant showed she was available for work

[14] The General Division also decided the Claimant wasn't disentitled under section 18(1)(a) of the EI Act. She proved she was available for work, even though she didn't have a valid work permit. This was a question of fact. And the General Division's finding is supported by the evidence that was before the General Division.

[15] The Commission didn't challenge this finding. This means the Claimant isn't disentitled to EI regular benefits under section 18(1)(a) of the EI Act.

Conclusion

[16] I am allowing the Claimant's appeal.

[17] I understand the Commission will now pay her EI benefits for weeks in her claim where she meets all other conditions of eligibility. She might need to complete biweekly reports for those weeks. If the Commission (or a Service Canada agent) hasn't contacted her in two weeks, she should contact Service Canada.

Glenn Betteridge
Member, Appeal Division