

Back For More: Secondary Claims For EI Benefits In Canada



Introduction

In Canada, Employment Insurance (“**EI**”) provides temporary income support to unemployed individuals as they search for new employment. The critical role of EI in supporting Canadian workers through transition periods is well known, but there are different rules that govern EI entitlements when an individual endures a new life event after an initial EI claim and must reapply (*i.e.*, submitting a “secondary claim”).

In light of a [recent case](#) before the Social Security Tribunal of Canada (the “**SST**”), this blog provides employers with a practical overview of the rules governing EI benefit entitlements, clarifies the legal distinction between overlapping claims for “regular” and “special” EI benefits, and offers practical insights to employers assessing the EI-related impacts of a termination.

Regular EI Benefits

EI eligibility and entitlements are governed by the *Employment Insurance Act* (the “**Act**”). Regular EI benefits apply when an individual experiences an interruption in earnings due to job loss or layoff. For these claims, the Act establishes a maximum benefits period of 52 weeks, during which EI recipients are barred from receiving additional regular EI benefits (*i.e.*, “double dipping”). Importantly, the 52-week benefit period is **fixed** – once the first EI payment is issued, the benefits period cannot be paused, extended, or restarted.

To requalify for regular EI benefits, an individual must work enough insurable hours (typically 420-700 hours, depending on regional unemployment rates). Without meeting this threshold, the unemployed individual cannot re-access regular EI benefits, even if they remain without work beyond the maximum benefits period.

This rule bears significant implications for individuals whose circumstances change after they begin receiving regular EI. For instance, if an individual collects EI for only a few weeks, finds short-term work, and subsequently gets laid off again two months later, the claimant is still bound by the original benefits period.

Special EI Benefits

In contrast to regular EI benefits, the Act provides for potential extensions of the 52-week maximum benefits period for certain kinds of EI claims. Examples of these claims – characterized as “special benefits”– include [maternity, parental, and sickness benefits](#).

To qualify for special EI benefits, insured employees must have accumulated a minimum of 600 hours of insurable employment during their qualifying period, meet the eligibility criteria of the specific special benefits being claimed, and experience a reduction in their normal weekly earnings by over 40%.

LB v Canada Employment Insurance Commission, 2024 SST 1684

In a recent case before the SST, a woman who developed PTSD resulting from traumatic events during her parental leave sought access to EI sickness benefits beyond the maximum 52-week benefits period. Although her original benefits period had expired, the SST ruled that the claimant’s illness qualified as a “special benefit”, thereby entitling her to receive up to 26 additional weeks of sickness benefits beyond the standard 52-week limit.

Drawing the Distinction

In essence, the difference between the treatment of secondary claims for regular and special EI benefits is as follows:

- For **regular** EI benefits: the 52-week benefit period is fixed. No extensions are granted, and secondary claims require requalification.
- For **special** EI benefits: extensions are permitted under certain conditions, particularly if a new illness or caregiving need arises during the original benefits period. Unlike regular EI benefits, multiple types of special benefits can be claimed consecutively, provided the claimant remains eligible for each special benefit type separately.

This structure provides greater flexibility for those navigating complex or evolving life circumstances under special benefits.

Final Thoughts

Understanding the impact of secondary claims on EI benefits is important – not just for employees navigating life transitions, but also for employers that want to be sensitive to the impacts of layoffs or terminations. As highlighted by the recent SST decision, claimants for regular EI benefits face stricter limitations, while those seeking access to special benefits may, under certain conditions, receive more flexible support.

For employers, the rules governing secondary claims for regular and special EI benefits is more than a matter of compliance; it impacts how they plan for, and communicate about, employee transitions.

While employers cannot always predict illnesses or injuries, they may become aware of an impending or potential leave. In these situations, understanding the potential interaction between regular and special EI benefits, particularly if the employee could encounter another qualifying event within their 52-week benefits period, can soften the blow of the termination and defuse potential claims for damages. Considering alternatives such as working notice, salary continuation, garden leaves, leaves of absence, or other options could allow an employee to access the full spectrum of benefits with little to no impact on the employer, financially or otherwise.

While life events often unfold unpredictably, employers that stay informed and anticipate potential EI impacts will be better positioned to navigate employee transitions – with fairness and with care.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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