



[2021] 3 F.C.R. D-18

EMPLOYMENT INSURANCE

Judicial review of Social Security Tribunal – Appeal Division decision allowing Canada Employment Insurance Commission’s appeal on ground General Division erred in law when interpreting expression “corresponding types of benefits” — Present matter first to raise interrelationship of *Act respecting parental insurance*, C.Q.L.R., c. A-29.011 (Quebec Act), provisions of *Employment Insurance Act*, S.C. 1996, c. 23 (Act), *Employment Insurance Regulations* (SOR/96-332) (Regulations) — Core issue in this case whether paternity benefits provided for by Quebec plan, maternity, parental benefits provided by federal plan under Regulations¹, s. 76.19(1.1) constituting “corresponding types of benefits” — Applicant accruing 600 hours of insurable employment between May 1, September 15, 2017 — Taking paternity leave, receiving benefits under Quebec Act from September 17 to October 21 — Subsequently returning to work but laid off a few weeks later — Receiving regular employment insurance benefits starting on December 3 — Commission determining that beginning of benefit period was instead September 17 — Considering that applicant not entitled to receive regular employment insurance benefits pursuant to Act, s. 7(2), asking applicant to reimburse overpayment of \$4,400.00 — General Division reversing Commission’s decision — Holding that s. 76.19(1.1) not applying in this case, because paternity benefits provided for in Quebec plan, parental benefits provided for in employment insurance program not corresponding types of benefits — According to Appeal Division, ordinary meaning of phrase “corresponding types” meaning “types that share some common features” or “that expresses a resemblance” — Therefore not necessary for claimant to be entitled to receive identical benefits under Quebec, federal plans — Applicant arguing, *inter alia*, that Appeal Division failed to take into account Parliament’s intention in its interpretation of s. 76.19(1.1), which was to prevent a claimant from receiving benefits under Quebec plan, Act for same period — According to applicant, a claimant cannot receive paternity benefits under Act because Act providing only for maternity, parental benefits — In applicant’s opinion, paternity benefits distinct, different from maternity, parental benefits under QPIP Act in that they apply only to fathers, have their own set of requirements — Issue whether reasonable for Appeal Division to set aside General Division’s interpretation of phrase “corresponding types of benefits” — Entirely reasonable for Appeal Division to rule that General Division’s decision erroneous in law — Appeal Division could reasonably find that s. 76.19(1.1) unambiguous, that General Division erred in finding that paternity benefits under Quebec plan, parental benefits not corresponding types of benefits simply because paternity benefits not existing under federal plan — Parliament would not have used phrase “corresponding types of benefits” if intending s. 76.19(1.1) to apply only in cases where same type of benefit offered by both levels of government — Phrase “corresponding types” not meaning “identical”, but referring instead to resemblance between types of benefits or types of benefits sharing common characteristics — Clear that provincial benefits not expected to be identical to federal benefits, that impossibility of cumulating benefits only in cases where two plans overlapped not contemplated — Appeal Division’s interpretation not only consistent with ordinary meaning of words, overall context of statutory text including s. 76.19(1.1), also consistent with object sought by Parliament — Federal

¹ S. 76.19(1.1) provides that a benefit period is deemed to be established when the benefit period was established under a provincial law, and it is deemed to have begun the same week as the period established under the provincial law if the claimant would have been entitled to the corresponding types of benefits under the Act in respect of the same period.

jurisdiction over unemployment insurance authorizing Parliament to legislate not only to provide maternity benefits but also parental benefits, since both benefits relating to “function of the reproduction of society” — Paternity, maternity, parental benefits clearly “corresponding types of benefits”, playing same social role — Regulations, Part III.1, containing s. 76.19(1.1), adopted to implement agreements reached by Government of Canada, provincial government to facilitate coexistence of two plans — Main purpose of measures in regulations regarding entitlement to provide some consistency when agreement reached with province that has adopted its own benefits plan — All provincial benefits paid to a person to enable them to care for newborn baby should be considered “corresponding types of benefits” — Accepting applicant’s argument, as General Division did, implying that applicant could have received paternity benefits for same period under Quebec Act, parental benefits under Act — This would not only contravene Regulations, s. 76.09(1), but would also be unfair for other Canadians in other provinces who would thereby find themselves funding benefits to which residents of Quebec do not contribute — Furthermore, claimant could subsequently receive regular benefits that would not take into account paternity benefits already received, giving him unfair advantage over all other claimants residing in another province not having plan equivalent to Quebec’s plan — Entirely reasonable therefore for Appeal Division to rule that General Division’s decision erroneous in law, that appeal should be allowed — Application dismissed.

OUIMET V. CANADA (ATTORNEY GENERAL) (A-176-19, 2021 FCA 200, de Montigny J.A., reasons for judgment dated October 15, 2021, 14 pp.)