



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *DC v Minister of Employment and Social Development*, 2022 SST 1672  
Tribunal File Number: GP-22-1316

BETWEEN:

**D. C.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security**

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DECISION BY: Anita Nathan

DATE OF DECISION: November 25, 2022

## **REASONS AND DECISION**

### **INTRODUCTION**

[1] The Respondent denied the Appellant's application for benefits at the initial level and on April 26, 2021 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on July 25, 2022.

### **ISSUE**

[2] The Tribunal must decide whether the appeal was brought in time.

### **THE LAW**

[3] Under subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), in no case may an appeal be brought to the General Division of the Tribunal more than one year after the day on which the Respondent's reconsideration decision was communicated to the Appellant.

[4] This means that the Appellant has one year, from the date they received the reconsideration decision, to file an appeal with the General Division of the Social Security Tribunal.

[5] If the Appellant files an appeal past the one-year mark, the appeal can't proceed.

### **APPELLANT'S SUBMISSIONS/EVIDENCE**

[6] The reconsideration decision was dated April 26, 2021. The Tribunal wrote to the Appellant and asked when she received the reconsideration decision. She said she does not recall as her upstairs neighbor collected her mail.

### **ANALYSIS**

[7] The Tribunal takes judicial notice of the fact that mail in Canada is usually received within 10 days. The Tribunal therefore finds that the reconsideration decision was communicated to the Appellant by May 6, 2021.

[8] The Appellant had until May 6, 2022 to file an appeal with the General Division.

[9] The Appellant filed an appeal on July 23, 2021, but she sent it to Service Canada instead of the Tribunal.

[10] The Appellant only filed her appeal with the General Division of the Tribunal on July 25, 2022. This is more than two months past the one-year deadline.

[11] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal more than one year after the decision was communicated to the Appellant. The Tribunal must apply subsection 52(2) of the DESD Act which clearly states that in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Appellant.

## **CONCLUSION**

[12] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Anita Nathan

Member, General Division – Income Security