

**Citation: *S. G. v. Minister of Employment and Social Development*, 2015 SSTAD 952**

**Date: July 31, 2015**

**File number: AD-15-547**

**APPEAL DIVISION**

**Between:**

**S. G.**

**Applicant**

**and**

**Minister of Employment and Social Development  
(formerly known as the Minister of Human Resources and Skills Development)**

**Respondent**

**Decision by: Valerie Hazlett Parker, Member, Appeal Division**

## REASONS AND DECISION

### INTRODUCTION

[1] The Appellant applied for a *Canada Pension Plan* disability pension. She claimed that she was disabled by chronic pain, headaches and other medical conditions. The Respondent denied her application initially and after reconsideration. The Appellant appealed the reconsideration decision to the Office of the Commissioner of Review Tribunals. On May 5, 2008 the Review Tribunal denied her appeal.

[2] The Appellant requested leave to appeal the Review Tribunal decision on October 30, 2014. This appeared to be after the time to so had expired. She provided arguments to support her request to extend the time to file the appeal, and why her appeal should succeed.

[3] The Respondent filed no submissions.

### ANALYSIS

[4] I must decide first if the time for filing this appeal should be extended. If the time is extended, I must decide if leave to appeal should be granted.

[5] In her request for leave to appeal, the Applicant explained that she made this request beyond the time permitted to do so because she was involved in an appeal to a workers' compensation tribunal at the time of the Review Tribunal hearing, and it was a very stressful time. She contended, further, that she had an arguable case on appeal and that she had been prejudiced by the delay in proceeding with this matter.

[6] The *Department of Employment and Social Development Act* governs the operation of this Tribunal. Section 57 of the Act provides that an appeal to the Appeal Division of the Tribunal must be made 90 days after the decision appealed from was communicated to the Appellant. This time can be extended by the Appeal Division, but in no case may an application be made more than one year after the day on which the decision was communicated to the Appellant (see the Appendix to this decision).

[7] In this case, the decision appealed from is dated May 5, 2008. It would have been communicated to the Appellant at that time. She did not allege that she did not receive it in a timely way.

[8] The Appellant did not request leave to appeal from this decision until October 2014, over six years later. Clearly this request for leave to appeal was made long after the time permitted under the *Department of Employment and Social Development Act*.

[9] I appreciate that the Appellant was involved in litigation with another tribunal in 2008. The workers' compensation tribunal made its decision in August 2008. I also understand that this was a stressful time for the Appellant and that she might not have been aware of her right to seek an appeal from the Review Tribunal decision. These arguments do not assist her. The Social Security Tribunal is a statutory tribunal. It has the authority to grant relief only as set out in its enabling legislation. It cannot grant any relief on compassionate grounds. The legislation does not permit any appeal to be made more than one year after the decision to be appealed from was communicated to the Appellant. The request to extend the time to file the request for leave to appeal must be refused.

[10] As I have refused the request to extend the time to file the appeal, I need not consider whether the Appellant has met the legal test to be granted leave to appeal.

## **CONCLUSION**

[11] For the reasons set out above the application is refused

*Valerie Hazlett Parker*  
Member, Appeal Division

## **APPENDIX**

### **Department of Employment and Social Development Act**

57. (1) An application for leave to appeal must be made to the Appeal Division in the prescribed form and manner and within,

- (a) in the case of a decision made by the Employment Insurance Section, 30 days after the day on which it is communicated to the appellant; and
- (b) in the case of a decision made by the Income Security Section, 90 days after the day on which the decision is communicated to the appellant.

(2) The Appeal Division may allow further time within which an application for leave to appeal is to be made, but in no case may an application be made more than one year after the day on which the decision is communicated to the appellant.