



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. T. v. Minister of Employment and Social Development*, 2018 SST 921

Tribunal File Number: AD-18-458

BETWEEN:

N. T.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time by: Jude Samson

Date of Decision: September 19, 2018

DECISION AND REASONS

DECISION

[1] An extension of time to apply for leave to appeal is refused.

OVERVIEW

[2] The Applicant, N. T., applied for a disability pension under the terms of the *Canada Pension Plan* (CPP). According to her application, she last worked as a machine operator but had to stop working in September 2007 because of the pain and headaches that set in following a motor vehicle accident. The Respondent, the Minister of Employment and Social Development (Minister), denied the Applicant's CPP disability pension application initially and on reconsideration.

[3] The Applicant appealed the Minister's decision to the Tribunal's General Division, but it dismissed her appeal. In short, the General Division concluded that the Applicant had not established that her various conditions, either individually or cumulatively, caused restrictions that would have made her incapable regularly of pursuing any substantially gainful employment on or before December 31, 2011 (the end of her minimum qualifying period).

[4] The Applicant is now requesting leave to appeal the General Division decision, but her application was filed late, meaning that she requires an extension of time before the matter can move forward. Unfortunately for the Applicant, I have concluded that I have no power to grant the extension of time that she needs.

ISSUES

[5] These are the questions that I have asked and answered:

- a) Was the application requesting leave to appeal to the Appeal Division filed late?
- b) Do I have the power to grant the Applicant the extension of time that she needs?

ANALYSIS

Issue 1: Was the application requesting leave to appeal to the Appeal Division filed late?

[6] Yes, the application requesting leave to appeal was filed late.

[7] Applications requesting leave to appeal must be received by the Tribunal within 90 days of when the applicant receives the General Division decision.¹

[8] In this case, the General Division decision is dated February 15, 2016. The Applicant is not sure of the exact date when she received the decision, but admits that it was later in the same month.² Indeed, documents that the Tribunal sends to applicants by ordinary mail are deemed to have been received by them 10 days after they are sent.³ As a result, the application requesting leave to appeal was due towards the end of May 2016.

[9] However, the Applicant's request for leave to appeal was received by the Tribunal only on July 20, 2018, meaning that it was well beyond the 90-day deadline.

Issue 2: Do I have the power to grant the Applicant the extension of time that she needs?

[10] No, I do not have the power to grant the Applicant the extension of time that she needs.

[11] The powers that Appeal Division members have to grant extensions of time are those set out in the *Department of Employment and Social Development Act* (DESD Act). Section 57(2) of the DESD Act does allow me to grant extensions of time, but not in cases where the application requesting leave to appeal is filed more than one year after the day the applicant receives the General Division decision.

[12] The Applicant in this case argues that she has been trying to exercise her appeal rights since receiving the General Division decision, but that she has been frustrated at every turn, particularly by the lawyers who handled her case before the General Division. Unfortunately, that is a matter between the Applicant and her legal representatives.

¹ *Department of Employment and Social Development Act*, s 57(1)(b).

² AD1-3.

³ *Social Security Tribunal Regulations*, s 19(1)(a).

[13] No matter how compelling her reasons may be, I am simply unable to grant the Applicant the extension of time that she needs to move this matter forward. I have come to this conclusion because the Applicant filed her application requesting leave to appeal more than a year after receiving the General Division decision.

CONCLUSION

[14] An extension of time to apply for leave to appeal is refused.

Jude Samson
Member, Appeal Division

REPRESENTATIVE:	N. T., self-represented
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