



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. B. v Minister of Employment and Social Development*, 2019 SST 408

Tribunal File Number: GP-19-184

BETWEEN:

**A. B.**

Appellant (Claimant)

and

**Minister of Employment and Social Development**

Minister

---

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

---

Decision by: George Tsakalis

Date of decision: March 19, 2019

## DECISION

[1] The Claimant's application to rescind or amend the June 21, 2017 decision of the General Division of the Social Security Tribunal (Tribunal) was not brought in time and cannot proceed.

## ANALYSIS

[2] This application involves a request to rescind or amend a decision of the Tribunal. In a decision dated June 21, 2017, the Tribunal found that the Claimant did not have a severe disability under the CPP and dismissed his appeal. The Applicant filed an application with the Tribunal to rescind or amend that decision on January 21, 2019.

[3] Section 66 of the *Department of Employment and Social Development Act* (the "DESD Act") permits the Tribunal to rescind or amend a decision given by it in respect of a CPP disability application if a new material fact is presented that could not have been discovered at the time of the hearing with the exercise of reasonable diligence.<sup>1</sup> However, an application to rescind or amend a decision of the Tribunal must be made within one year after the day on which a decision is communicated to the appellant.<sup>2</sup>

[4] The Tribunal does not have any discretion to hear an application to rescind or amend a decision if the application is brought outside the one year period allowed under the DESD Act.<sup>3</sup>

[5] The Claimant stated in his application to rescind or amend this decision that he received the Tribunal's decision on June 21, 2017. He did not file his application to rescind or amend with the Tribunal until January 21, 2019. He filed his application outside the one year period set out in the DESD Act.

[6] The Tribunal records show that it mailed the decision to the Claimant on June 21, 2017. It is unlikely that the Claimant would have received the decision on June 21, 2017. It would be appropriate to apply the deeming provision under section 19 the *Social Security Tribunal Regulations* (the Regulations) and deem the decision to have been communicated to the Claimant ten days after the date on which it was mailed to him. In this case, that would have been on July

---

<sup>1</sup> Paragraph 66(1)(b) DESD Act

<sup>2</sup> Subsection 66(2) DESD Act

<sup>3</sup> *Tang v. Canada (Attorney General)*, 2017 FCA 59

1, 2017. When a time limit expires on a holiday, the appeal or application can be considered to be filed on the next day that is not a holiday.<sup>4</sup> In this case, that would be on July 4, 2017. Even when using the deeming provisions under the Regulations, the application was filed outside the one year period from the date the decision was communicated to the Claimant.

[7] I find that the Claimant brought his application to rescind or amend the decision of the Tribunal more than a year after the decision was communicated to him.

## **CONCLUSION**

[8] The application to rescind or amend was not brought in time and cannot proceed under the provisions of the DESD Act.<sup>5</sup> This appeal is dismissed.

George Tsakalis  
Member, General Division - Income Security

---

<sup>4</sup> Section 26 *Interpretation Act*

<sup>5</sup> Subsection 66(2) *DESD Act*