



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. G. v Minister of Employment and Social Development*, 2020 SST 380

Tribunal File Number: GP-19-1657

BETWEEN:

G. G.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security Section

DECISION BY: Adam Picotte

DATE OF DECISION: January 12, 2020

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for a CPP disability benefit. The Respondent denied the application initially and upon reconsideration. The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on October 16, 2019.

[2] Subsection 53(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the General Division must summarily dismiss an appeal if satisfied that it has no reasonable chance of success (*Miter v. Canada (A.G.)*, 2017 FC 262).

[3] The Tribunal has decided that this appeal has no reasonable chance of success for the reasons set out below.

EVIDENCE

[4] The reconsideration decision is dated June 20, 2018.¹ The Appellant stated he did not know when he received the reconsideration decision. The Tribunal takes judicial notice that decisions are delivered to Appellants by mail. Absent any contrary information, mail delivery is completed within 10 days. As such, I find that the reconsideration decision was communicated to the Appellant by June 30, 2018.

[5] The Claimant filed his notice of appeal on October 16, 2019.²

SUBMISSIONS

[6] The Appellant was given notice in writing of the intent to summarily dismiss the appeal and was allowed a reasonable period of time to make submissions as required by Section 22 of the *Social Security Tribunal Regulations* (Regulations).

[7] The Appellant made no submissions and did not contact the Tribunal to advise that he would be providing submissions.

¹ GD2-8

² GD1-1

ANALYSIS

[8] The Tribunal is created by legislation and, as such, it has only the powers granted to it by its governing statute. The Tribunal is required to interpret and apply the provisions as they are set out in the CPP.

[9] The legislation that controls the Tribunal requires that an Appellant file a notice of appeal within 90 days.³ However, the legislation also says that I may allow further time within which an appeal may be brought but in no case may an appeal be brought more than one year after the day on which the decision is communication to the Appellant.⁴

[10] The reconsideration decision was communicated to the Appellant by June 30, 2018. He had until June 29, 2019 to file his notice of appeal. He did not file his notice of appeal until October 2019. As such he filed his notice of appeal more than one year after the reconsideration decision was communicated him. As a result, the legislation sets out that he cannot bring this appeal.

[11] Accordingly, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[12] The appeal is summarily dismissed.

Adam Picotte
Member, General Division - Income Security

³ *Department of Employment and Social Development Act (DESDA)* Section 52(1)(b)

⁴ *DESDA* Section 52(2)