



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *DO v Minister of Employment and Social Development*, 2020 SST 856

Tribunal File Number: AD-20-786

BETWEEN:

D. O.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time by: Valerie Hazlett Parker

Date of Decision: October 7, 2020

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] D. O. (Claimant) completed high school and earned a diploma in hotel and restaurant administration. He last worked in research animal care at a university. The Claimant stopped working in 2016 because he had one leg amputated below the knee. Despite this, he later returned to work on a part-time basis.

[3] The Claimant applied for a Canada Pension Plan disability pension and claimed that he was disabled as a result of the amputation. The Minister of Employment and Social Development refused the application. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal. It decided that although the Claimant had limitations, he retained some capacity regularly to pursue a substantially gainful occupation.

[4] The application for leave to appeal this decision to the Tribunal's Appeal Division is late. The Claimant's request to extend time to file the application is refused. Time to file the application cannot be extended for more than one year after the General Division decision was communicated to the Claimant.

ISSUES

[5] Was the application to the Appeal Division filed late?

[6] If so, can time to file the application be extended?

ANALYSIS

The application is late

[7] An application to the Tribunal's Appeal Division must be filed within 90 days of when the General Division decision is communicated to a claimant.¹ In the Application to the Appeal Division, the Claimant's mother wrote that the Claimant received the decision on January 20, 2019.² The Application to the Appeal Division was filed with the Tribunal on September 23, 2020. This is more than 90 days after January 20, 2019.

[8] Therefore, the application is late.

Time to file the application cannot be extended.

[9] Time to file an application to the Appeal Division can be extended, but not for more than one year after the General Division decision was communicated to a claimant.³ This application was filed with the Tribunal more than one year after the General Division decision was communicated to the Claimant.

[10] This Tribunal has no legal authority to extend time to file an application beyond this, no matter how compelling or sympathetic the case may be.

[11] The Claimant's mother filed the application on the Claimant's behalf, pursuant to a Power of Attorney. She filed the application within 90 days of being granted authority to act on behalf of the Claimant. However, this cannot extend the deadline for filing the application. The Claimant signed the Power of Attorney on August 12, 2020. He acknowledged that he was aware of the nature and effect of this document at that time. Nothing suggests that he could not form or express an intention to make an application before he signed the Power of Attorney.

CONCLUSION

[12] An extension of time to apply for leave to appeal is refused for these reasons.

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

² AD1-2

³ *Department of Employment and Social Development Act* s. 57(2)

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	M.O., for the Applicant
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