



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *WM v Minister of Employment and Social Development*, 2021 SST 851

Tribunal File Number: GP-21-2165

BETWEEN:

W. M.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security

DECISION BY: Jackie Laidlaw

DATE OF DECISION: November 25, 2021

REASONS AND DECISION

INTRODUCTION

[1] The Respondent denied the Appellant's application for benefits at the initial level and on January 9, 2019 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on October 12, 2021.

ISSUE

[2] The Tribunal must decide whether the appeal was brought in time.

THE LAW

[3] Under subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), in no case may an appeal be brought to the General Division of the Tribunal more than one year after the day on which the Respondent's reconsideration decision was communicated to the Appellant.

APPELLANT'S SUBMISSIONS/EVIDENCE

[4] The only submission included in the notice of appeal was that the Appellant's insurance carrier indicated to him that he should apply for the CPP from the 2019 reconsideration decision.

[5] The Appellant did not supply the date he received the reconsideration letter.

ANALYSIS

[6] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant on January 19, 2019 after taking judicial notice of the mail and allowing 10 days for delivery.

[7] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal more than one year after the decision was communicated to the Appellant. The Tribunal must apply subsection 52(2) of the DESD Act which clearly states that in

no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Appellant.

CONCLUSION

[8] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Jackie Laidlaw
Member, General Division – Income Security