



Citation: *GM v Minister of Employment and Social Development*, 2022 SST 365

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant:	G. M.
Respondent:	Minister of Employment and Social Development
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Decision under appeal:	General Division decision dated January 27, 2021 (GP-20-1978)
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Tribunal member:	Kate Sellar
Decision date:	May 6, 2022
File number:	AD-22-241

Decision

[1] I am refusing an extension of time to apply for leave (permission) to appeal. The appeal will not proceed.

Overview

[2] The Claimant was receiving a Canada Pension Plan disability pension. In December 2017, the Minister of Employment and Social Development Canada (Minister) stopped the disability pension effective August 2015.

[3] In a reconsideration letter dated January 24, 2018, the Minister maintained that decision to stop the disability pension.

[4] The Claimant appealed to this Tribunal on December 14, 2020. The General Division decision is dated January 27, 2021. It says that the Claimant filed his appeal more than one year after the Minister communicated the reconsideration decision to him. When Claimant's are past the one-year mark, the General Division cannot provide an extension of time to appeal. Accordingly, the General Division did not allow the Claimant's appeal to go ahead.

[5] The Claimant asks for permission (leave) to appeal the General Division's decision. I must decide whether the Claimant's appeal to the Appeal Division is late, and if it is late, whether I can extend the time for filing the application.

[6] The Claimant's application to the Appeal Division is late. I cannot extend the time for filing the application. The appeal will not go ahead.

Issue

[7] The issues are:

- a) Was the application to the Appeal Division late?
- b) If so, can I extend the time for filing the application?

Analysis

The application was late

[8] The Tribunal communicated the General Division's January 27, 2021 decision by email to the email addresses on file for the Claimant and for his lawyer on January 28, 2021.

[9] The Claimant filed his application for leave to appeal at the Appeal Division on April 21, 2022.¹

I cannot extend the time for filing the application

[10] I do not have the power to grant an extension of time. The law says that an application cannot proceed for any reason if it was made more than a year after the tribunal communicated the General Division decision.²

[11] The Claimant filed his application for leave to appeal more than one year after the General Division emailed the decision to him and to his lawyer.

[12] The Claimant argues that he was late at the Appeal Division because he had retained a lawyer, and the lawyer recently returned the file without completing the proper steps in the case.

[13] Although I understand why the Claimant did not file the application for leave to appeal within the one-year period, I do not have the power to extend the time past that year. The record shows that in addition to his lawyer, he also personally received the decision via email from the Tribunal.

[14] Claimants who have suffered losses because of actions (or inactions) of their lawyers have other legal paths to access remedies and can consult a lawyer for advice.³

¹ See AD1.

² This is found in section 57(2) of the *Department of Employment and Social Development Act*.

³ Another Appeal Division member came to the same conclusion on similar facts in *J.R. v Minister of Employment and Social Development*, 2018 SST 245. See especially paragraph 11 of that decision.

Conclusion

[15] I am refusing the extension of time. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division