



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *GM v Minister of Employment and Social Development*, 2021 SST 963

Tribunal File Number: GP-20-1978

BETWEEN:

G. 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: January 27, 2021

REASONS AND DECISION

INTRODUCTION

[1] The Respondent stopped the Appellant's disability benefits as of August 2015 and communicated this to the Claimant in a letter dated December 6, 2017. The Appellant requested a reconsideration and on January 24, 2018 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on December 14, 2020.

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 Appellant stated he received the reconsideration decision on January 24, 2018. The Tribunal recognizes that this would not be the case, as it was mailed, and the Tribunal allows 10 days for mail delivery. The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant on February 3, 2018.

[5] The Appellant submitted that in January 2018 he was having hip and shoulder surgery. He indicates contacted Service Canada in both January and July, presumably in 2018. He was incorrectly told to send his documents to Service Canada. There are no records that this was done within the one-year period.

[6] The Appellant further submitted that once he hired his lawyers they sent documents to Service Canada and they were told to send them to the Tribunal. The

evidence shows that Service Canada received correspondence from the lawyers on November 20, 2020, beyond the one-year mark.

ANALYSIS

[7] The Appellant had 90-days from February 3, 2018, the determined date of receipt of the reconsideration letter, to file a notice of appeal. That would give him until May 4, 2018 to file a notice of appeal.

[8] The Appellant filed the appeal on December 14, 2020, 22 months from the date of receipt of the reconsideration decision.

[9] 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

[10] 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