



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *GM v Minister of Employment and Social Development*, 2022 SST 1027

Tribunal File Number: GP-22-1167

BETWEEN:

G. M.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security

DECISION BY: François Guérin

DATE OF DECISION: July 25th, 2022

REASONS AND DECISION

INTRODUCTION

[1] The Respondent denied the Appellant's application for benefits at the initial level and on May 1, 2020 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on June 17, 2022.

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 submitted that she called the CPP Disability office on November 17, 2021 to enquire if a decision had been made further to her letter of August 6, 2020.¹ She submits that she was told during this phone call to resend a copy of that decision if she still had it or to restart an application over again.

[5] The Tribunal notes that the Appellant did not submit any evidence that her letter dated August 6, 2020 was sent. The Tribunal also notes that the instructions given to the Appellant in the Reconsideration decision letter dated May 1, 2020² were to submit a Notice of Appeal to the Tribunal within 90 days of the date she received the Reconsideration decision. If she did follow-up on the

¹ GD1-6 to 7 and GD2-12 to 13 (received by the Minister on June 9, 2022)

² G2-15

Reconsideration decision, she seems to have followed-up with the wrong organization by contacting the respondent instead of the Tribunal. Furthermore, from the information the Appellant submitted in her letter to the Tribunal,³ it appears that she waited approximately 15 months to follow-up with the Minister on her letter of August 6, 2020.

ANALYSIS

[6] The Minister's reconsideration decision is dated May 1, 2020.⁴ The Tribunal assumes that the reconsideration decision was sent to the Appellant by mail. The Tribunal takes official notice that mail in Canada is usually received within 10 days. The Tribunal therefore finds that the reconsideration decision was communicated to the Appellant by Monday, May 11, 2020.

[7] In accordance with paragraph 52(1)(b) of the DESD Act, the Appellant had until Monday, August 10, 2020 to file an appeal, as August 9, 2020 was a Sunday.

[8] The Appellant filed an Appeal on June 17, 2022, outside the 90-day limit.

[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.

³ GD1-5

⁴ GD2-14 to 16

CONCLUSION

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

François Guérin
Member, General Division – Income Security