



Citation: *CH v Minister of Employment and Social Development*, 2022 SST 979

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant (Claimant): C. H.
Representative: P. B.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated February 12, 2021
(GP-19-2011)

Tribunal member: Kate Sellar

Decision date: October 3, 2022

File number: AD-22-643

Decision

[1] I am refusing an extension of time to apply for leave (permission) to appeal. The appeal will not go ahead. These reasons explain why.

Overview

[2] The Claimant last worked as a full-time Continuing Care Assistant from 2003 until December 2014, when she had a car accident. She explained that she could no longer work as of that time because of a right foot fracture, right hand injury that required surgery, and post-traumatic stress disorder.

[3] The Claimant applied for a Canada Pension Plan (CPP) disability pension on July 6, 2018. The Minister of Employment and Social Development (the Minister) refused her application.

[4] The Claimant appealed to this Tribunal. The General Division dismissed her appeal in a decision dated February 12, 2021.

[5] I must decide whether I can give the Claimant an extension of time to appeal the General Division's decision.

[6] The Claimant will not receive an extension of time to appeal. The appeal will not go ahead.

Issues

[7] The issues in this appeal are as follows:

- 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 General Division decision is dated February 12, 2021. The Claimant says that she received that decision on February 15, 2021.¹ The Claimant filed her application for leave to appeal on September 5, 2022.²

[9] Claimants have 90 days from the date the General Division communicated its decision to ask the Appeal Division for permission to appeal.³ After 90 days, the application for permission to appeal is late, and the claimant needs an extension of time so that the Appeal Division can consider the appeal.

[10] The Claimant's application is late.

I am not extending the time for filing the application

[11] I cannot grant an extension of time to the Claimant.

[12] It seems that the Claimant filed a new application for disability benefits by accident when what she meant to do was appeal the General Division's decision to the Appeal Division. The Claimant withdrew the new application for benefits, and received advice from someone to file the request for permission to appeal the General Division's decision.⁴

[13] I understand that the Claimant was confused and made a mistake. Unfortunately, I can't give the Claimant an extension of time. The law says that an application cannot go ahead for **any reason** if the claimant applies more than a year after the General Division communicated its decision.⁵ The Appeal Division received the application from the Claimant many months after that one-year deadline.

¹ See AD1-1.

² See date stamps on the documents in AD1.

³ See section 57(1)(b) of the *Department of Employment and Social Development Act* (Act).

⁴ See AD1-5.

⁵ See section 57(2) of the Act.

[14] There's no dispute here about when the Claimant received the General Division decision. There is no dispute about when the Appeal Division received the Claimant's request for permission to appeal. The Claimant is past that one-year mark and I cannot grant an extension of time to appeal for any reason.

Conclusion

[15] I have refused to grant an extension of time. This means that the appeal will not go ahead.

Kate Sellar
Member, Appeal Division