



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *KB v Minister of Employment and Social Development*, 2023 SST 714  
Tribunal File Number: GP-22-2000

BETWEEN:

**K. B.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security**

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DECISION BY: Anita Nathan

DATE OF DECISION: February 10, 2023

## REASONS AND DECISION

### INTRODUCTION

[1] The Respondent denied the Appellant's application for benefits at the initial level and on September 30, 2020 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on December 12, 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's counsel says they filed an appeal by mail on January 31, 2021. They didn't receive any correspondence regarding the appeal, so they contacted the Tribunal on September 1, 2022. The Tribunal advised that they had no record of an appeal. So, counsel refiled the notice of appeal by email on September 2, 2022, and then again on December 12, 2022.

### ANALYSIS

[5] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant on January 24, 2021. This is based on the notice of appeal in which the Appellant says that is when she received the decision.<sup>1</sup>

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<sup>1</sup> See the Notice of Appeal at GD1 – 9.

[6] 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**

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

Anita Nathan  
Member, General Division – Income Security