



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *PG v Minister of Employment and Social Development*, 2023 SST 732  
Tribunal File Number: GP-23-418

BETWEEN:

**P. G.**

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: Adam Picotte

DATE OF DECISION: April 20, 2023

## **REASONS AND DECISION**

### **INTRODUCTION**

[1] The Minister denied the Appellant's application for benefits at the initial level and on August 16, 2021. The Respondent sent a letter on December 13, 2021, advising that it was sending a corrected reconsideration decision that denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on March 1, 2023.

### **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] In the Appellant's notice of appeal, she wrote that she did not remember when she received the reconsideration decision. Because the date of receipt was not known, I wrote to the Appellant on March 27, 2023 to request when she received the reconsideration decision. I advised her that the Tribunal required this information to determine whether her appeal could proceed.

[5] On April 17, 2023, the Appellant provided a response. Unfortunately, the Appellant was unable to provide a response that addressed by question. Instead, she wrote that her doctor had recently died and that the basis of her application for a CPP disability benefit was because she had been diagnosed with terminal cancer. She also wrote that her husband left her when she was diagnosed, and she now had a hard time trusting anyone.

While these may all be true, I am only tasked with determining whether her notice of appeal was received by the Tribunal within one year from the date she received a reconsideration decision from the Minister.

## **ANALYSIS**

[6] While the evidence on file is not helpful, I have considered the service standard for Canada Post. Canada Post sets out that its delivery time standard for regular mail within Canada is four days for national mail and less for provincial and local mail.<sup>1</sup>

[7] I also note that the reconsideration was sent to the mailing address where the Appellant resided at the time she was applying for a CPP disability benefit. This was within Canada. In other words, this was within Canada and given the service standards for Canada Post, I am satisfied that the Appellant received the reconsideration decision by December 31, 2021.

[8] In all the circumstances, I am satisfied that the Appellant received the reconsideration decision by December 31, 2021.

[9] In making this decision, I am mindful of the Appeal Division's guidance that taking notice, either official or judicial, of the fact that a piece of mail arrived or did not arrive is improper. Instead, the Appeal Division says I should ask the Appellant when she received the reconsideration decision and consider the facts in her file to infer when she received it.<sup>2</sup>

[10] In this case, I have relied upon the Canada Post service standard and upon information contained in the Appellant's file to determine that she received the reconsideration decision by December 31, 2021.

[11] 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.

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<sup>1</sup> <https://www.canadapost-postescanada.ca/cpc/en/support/kb/sending/general-information/how-long-does-it-take-for-a-parcel-or-letter-to-arrive>

<sup>2</sup> See *WM v Minister (Employment and Social Development)*, 2022 SST 29 at paragraphs 25 to 34.

[12] 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**

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

Adam Picotte  
Member, General Division – Income Security