



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *VJ v Minister of Employment and Social Development*, 2023 SST 805
Tribunal File Number: GP-23-600

BETWEEN:

V. J.

Appellant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Income Security

DECISION BY: Adam Picotte

DATE OF DECISION: May 15, 2023

REASONS AND DECISION

INTRODUCTION

[1] The Respondent denied the Appellant's application for benefits at the initial level and on May 18, 2021 denied the application at the reconsideration level. The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on March 28, 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] The Appellant's representative wrote in the notice of appeal that the reconsideration decision was received by the Appellant on May 18, 2021.¹

ANALYSIS

[5] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant on May 18, 2021. This is the date communicated by the Appellant to the Tribunal and I see no reason to disturb this.

[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

¹ GD1-4

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.

[8] Nothing in this decision prevents the Appellant from applying again with the Minister for a CPP disability benefit. Should he be unsuccessful in his new application he will continue to have a right to appeal to the Tribunal. However, he must make an application within 365 days of receipt of a reconsideration decision.

Adam Picotte
Member, General Division – Income Security