



Citation: *QH v Minister of Employment and Social Development*, 2023 SST 1382

**Social Security Tribunal of Canada  
General Division – Income Security Section**

## Decision

**Appellant:** Q. H.

**Respondent:** Minister of Employment and Social Development

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**Decision under appeal:** Minister of Employment and Social Development  
reconsideration decision dated (issued by Service  
Canada)

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**Tribunal member:** Michael Medeiros

**Decision date:** July 11, 2023

**File number:** GP-23-1008

## Decision

[1] The appeal won't go ahead. This decision explains why.

## Overview

[2] The Appellant applied for a Canada Pension Plan (CPP) disability pension on May 20, 2021. The Minister of Employment and Social Development (Minister) refused his application. He asked it to reconsider. On April 1, 2022, the Minister reconsidered its decision and refused the application again.

[3] The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on June 9, 2023.

## What I have to decide

[4] I have to decide whether the Appellant appealed in time.

## Reasons for my decision

[5] The appeal won't go ahead because the Appellant didn't appeal to the Tribunal in time. Here are the reasons for my decision.

## What the law says

[6] If an appellant disagrees with the Minister's reconsideration decision, they have to appeal to the Tribunal within 90 days after the Minister told them about the decision.<sup>1</sup>

[7] If the appellant appeals after the deadline, the Tribunal can give them more time (accept the late appeal). But **in no case** can the appellant appeal a reconsideration decision more than one year after the Minister told them about it.<sup>2</sup>

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<sup>1</sup> See section 52(1) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>2</sup> See section 52(2) of the DESD Act.

## **The Appellant's appeal was more than one year late**

[8] I find that the Appellant's appeal was more than one year late.

### **– The Minister told the Appellant about its decision by April 11, 2022**

[9] The Minister told the Appellant about its reconsideration decision by April 11, 2022. The reconsideration decision letter is dated April 1, 2022. The mail is usually delivered within 10 days in Canada. I have no reason to believe it took an unusually long time for the Appellant to receive the letter, which he included with his notice of appeal to the Tribunal.

### **– The Appellant had to appeal by April 11, 2023**

[10] The Appellant had until April 11, 2023, to appeal to the Tribunal.

[11] The Appellant appealed on June 9, 2023.

[12] The Tribunal doesn't have equitable jurisdiction. This means I can't allow the appeal to go ahead because I think it would be fair, or because I want to help the Appellant in difficult circumstances. I have to follow the law.

## **Conclusion**

[13] The Appellant appealed more than one year after the Minister told him about its decision.

[14] This means the appeal won't go ahead.

Michael Medeiros  
Member, General Division – Income Security Section