



Citation: *BS v Minister of Employment and Social Development*, 2023 SST 1442

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

Decision

Appellant: B. S.
Respondent: Minister of Employment and Social Development

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

Tribunal member: Adam Picotte
Decision date: July 20, 2023
File number: GP-23-872



Decision

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

Overview

[2] The Appellant applied for a Canada Pension Plan disability benefit on July 30, 2019. The Minister of Employment and Social Development (Minister) refused her application. She asked it to reconsider. On March 28, 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 May 12, 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.¹

[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.²

The Appellant's appeal was more than one year late

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

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

² See section 52(2) of the DESD Act.

– **The Minister told the Appellant about its decision on March 28, 2022**

[9] The Minister told the Appellant about its reconsideration decision on March 28, 2022. I accept the Appellant’s written statement in her notice of appeal to the Social Security Tribunal that she received the reconsideration decision from the Minister on March 28, 2022.³

– **The Appellant had to appeal by March 27, 2023**

[10] The Appellant had until March 27, 2023 to appeal to the Tribunal.

[11] The Appellant appealed on May 12, 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 her about its decision.

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

Adam Picotte
Member, General Division – Income Security Section

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