



Citation: *DL v Minister of Employment and Social Development*, 2023 SST 1853

Social Security Tribunal of Canada General Division – Income Security Section

Decision

Appellant: D. L.
Representative: L. C.

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: December 6, 2023
File number: GP-23-1877

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 November 23, 2021. The Minister of Employment and Social Development (Minister) refused her application. She asked it to reconsider. On September 13, 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 November 10, 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.

[6] The reconsideration decision was dated September 13, 2022. In the notice of appeal, the Appellant wrote that she did not physically receive the letter until after September 26, 2022. I accept that the Appellant did not receive the reconsideration decision until the end of September 2022. As a result, I find she received the reconsideration decision by September 30, 2022.

What the law says

[7] 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

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

[8] 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

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

– The Minister told the Appellant about its decision on September 30, 2022

[10] The Minister told the Appellant about its reconsideration decision by September 30, 2022.

[11] The Appellant wrote that she received the reconsideration decision no earlier than September 26, 2022. I am satisfied that she received the reconsideration, at the latest, by September 30, 2022.

– The Appellant had to appeal by September 29, 2023

[12] The Appellant had until September 29, 2023, to appeal to the Tribunal.

[13] The Appellant appealed on November 10, 2023.

[14] 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.

[15] Nothing precludes the Appellant from filing a new application with the Minister.

Conclusion

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

² See section 52(2) of the DESD Act.

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

Adam Picotte

Member, General Division – Income Security Section