



Citation: *JR v Minister of Employment and Social Development*, 2023 SST 1846

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

Decision

Appellant: J. R.

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: Sarah Sheaves

Decision date: August 17, 2023

File number: GP-23-816

Decision

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

Overview

[2] The Appellant applied for a CPP disability pension on May 17, 2021. The Minister of Employment and Social Development (Minister) refused his application. He asked it to reconsider. On December 17, 2021, 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 5, 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

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 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 on December 17, 2021

[9] The Minister told the Appellant about its reconsideration decision sometime around December 17, 2021.³ This was the date of the reconsideration decision letter.

[10] The Appellant says he can't remember when he received the reconsideration decision letter. He suggests he received it "months after the date printed on the letter".⁴ He says he had a disruption of mail services.

[11] Even if the Appellant's mail was delayed due to a postal service disruption, the appeal would still be over one year late. It was filed almost 17 months after the decision was made.

[12] The Minister also sent a second copy of the reconsideration decision letter to the Appellant on August 22, 2022.⁵ The letter of August 22, 2022, clearly outlined the timeline for submitting an appeal. The Appellant took no further action regarding his appeal for nine months after receiving this letter.

[13] I find the Appellant received the reconsideration decision letter twice and was aware of the deadlines for his appeal that were clearly outlined in the letters.

– The Appellant had to appeal by December 17, 2022

[14] The Appellant had until December 17, 2022, to appeal to the Tribunal.

[15] The Appellant appealed on May 5, 2023.

³ See GD2-7.

⁴ See GD1-6.

⁵ See GD2-5.

[16] 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

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

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

Sarah Sheaves
Member, General Division – Income Security Section