



Citation: *TK v Minister of Employment and Social Development*, 2023 SST 2006

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

**Decision**

**Appellant:** T. K.

**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:** Adam Picotte

**Decision date:** December 6, 2023

**File number:** GP-23-1860

## 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 January 16, 2017. The Minister of Employment and Social Development (Minister) refused her application. She asked it to reconsider. On December 31, 2018, 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 2, 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>

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

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

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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 Minister told the Appellant about its decision on December 31, 2018**

[9] The Minister told the Appellant about its reconsideration decision on December 31, 2018.

[10] The decision was mailed to the Appellant at her address of record. Canada Post has a service standard of delivering mail in Canada within 4 business days. I am satisfied that the Appellant received the reconsideration decision by January 7, 2019.

– **The Appellant had to appeal by January 6, 2020**

[11] The Appellant had until January 6, 2020 to appeal to the Tribunal.

[12] The Appellant appealed on November 2, 2023.

[13] 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.

[14] The Appellant may wish to file a new application for a disability benefit with the Minister.

## **Conclusion**

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

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

Adam Picotte  
Member, General Division – Income Security Section