



Citation: *LB v Minister of Employment and Social Development*, 2026 SST 164

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: L. B.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated October 1, 2025
(GP-25-1271)

Tribunal member: Glenn Betteridge

Decision date: March 4, 2026

File number: AD-26-20

Decision

[1] I'm giving L. B. an extension of time to apply to appeal the General Division decision. But I can't give her leave (permission) to appeal.

[2] This means her appeal won't go forward.

Overview

[3] L. B. is the Claimant. She applied to appeal a General Division decision.¹ I'll call this her application. She applied late. But I extended the time.

[4] In 2023, the Claimant applied for a *Canada Pension Plan* (CPP) disability pension, for the third time. The Minister refused that application—initially then again on reconsideration. So she appealed to the General Division.

[5] The law says a person can't appeal if one year has passed since they learned about the Minister's reconsideration decision.

[6] The General Division refused to consider the Claimant's appeal. Because she made her appeal after the one-year deadline.

[7] The Claimant now argues she had difficulty obtaining the correct forms to appeal the Minister's reconsideration decision. And she will have new medical evidence to present to the Appeal Division.

[8] Unfortunately for the Claimant, I can't give her permission to appeal. She hasn't shown an arguable case the General Division made an error. And her new evidence isn't relevant to the legal issues in her appeal.

¹ See AD1 and AD3.

Issues

[9] I will decide three issues.

- If the Claimant's application was late, should I extend the time for her to file it?
- Should I give the Claimant permission to appeal based on an arguable case the General Division made an error?
- Should I give the Claimant permission to appeal based on the new medical evidence she describes in her application?

The Claimant's application was late, but I'm extending the time

[10] The Claimant says she doesn't remember when she got the General Division decision.² The Tribunal's file shows it emailed her the decision on October 1, 2025. The Tribunal Rules say I can assume she received it the next business day—October 2, 2025.³

[11] She had 90 days to apply to appeal the General Division decision.⁴ So, she had to file her application with the Appeal Division on or before December 31, 2025.

[12] The Claimant's application was late. The Appeal Division received her application January 7, 2026. The Tribunal stamp on the bottom of each page of her application tells me this.

² See AD3-8.

³ See section 22(3) of the *Social Security Tribunal Rules of Procedure* (Tribunal Rules).

⁴ See section 57(1)(b) of the *Department of Employment and Social Development Act* (DESD Act).

[13] But I'm extending the time for her to make her application, to January 7, 2026.⁵ Because she gave a reasonable explanation for why she was late.⁶ She says she was dealing with health problems and disability-related impairments.⁷

[14] This means I can consider whether to give her permission to appeal the General Division decision.

I can't give the Claimant permission to appeal

The permission to appeal test

[15] I will give the Claimant permission to appeal if she raises an arguable case the General Division made one of these errors

- didn't respect natural justice
- made a jurisdictional error
- made a legal error, a factual error, or a mixed error of fact and law in making its decision⁸

[16] An arguable case is one with a reasonable chance of success.⁹

[17] I can also give the Claimant permission to appeal if she set out new evidence in her application.¹⁰ New evidence means evidence that wasn't before the General Division.

⁵ See section 57(2) of the DESD Act.

⁶ See sections 27(1) and 27(2) of the Tribunal Rules.

⁷ See AD3-5, referring to AD1-4.

⁸ See sections 58.1(a) and (b) of the DESD Act.

⁹ See *Abramowitz v Canada (Attorney General)*, 2024 FC 1793 at paragraph 32; *Kryklywicz v Canada (Attorney General)*, 2026 FC 36 at paragraph 64.

¹⁰ See section 58.1(c) of the DESD Act.

No arguable case the General Division made an error

– The Claimant hasn't shown an arguable case of an error

[18] In her application, the Claimant says she is appealing the General Division decision because: "Date of original appeal/difficulty obtaining the correct forms."¹¹

[19] It's up to her to show an arguable case the General Division made an error. But she hasn't done that.¹² She doesn't refer to the General Division process or its decision. She doesn't explain or give an example of an error the law lets me consider. And simply disagreeing with the General Division's findings, or the outcome of the appeal, doesn't show an arguable case the General Division made an error.¹³

– I didn't find an arguable case of a factual error or a legal error

[20] The Claimant is representing herself. So I reviewed the General Division decision and the evidence in the General Division file.¹⁴

[21] The General Division made two factual findings.

- The Claimant received the Minister's reconsideration decision—denying her a CPP disability pension—by June 6, 2024 (see Decision paragraphs 9, 10).
- The General Division received her appeal on August 8, 2025—more than one year after she received the reconsideration decision (paragraphs 11, 12).

[22] The relevant evidence supports both findings. This tells me there's no arguable case the General Division based its decision on a factual finding it made with no evidence, or it made by ignoring or misunderstanding the evidence. In other words, there's no arguable case it made a factual error.

¹¹ See AD3-2.

¹² See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

¹³ See *Griffin v Canada (Attorney General)*, 2016 FC 874 at paragraph 20.

¹⁴ The Federal Court has said the Appeal Division should not apply the leave to appeal test mechanistically and should review the General Division record. See for example *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; *Joseph v Canada (Attorney General)*, 2017 FC 391.

[23] The General Division used one section of the law to dismiss her appeal (paragraphs 7, 14, 15). That section says a person can't bring an appeal if one year has passed since they learned about the Minister's reconsideration decision.¹⁵

[24] There's no arguable case the General Division used the wrong section of the law or misinterpreted that section. In other words, there's no arguable case it made a legal error.

[25] To summarize, the Claimant hasn't shown an arguable case the General Division made an error, and I didn't find an arguable case.

The Claimant's evidence doesn't meet the new evidence test

– Relevance is part of the new evidence test

[26] Section 58.1(c) of *Department of Employment and Social Development Act* says leave to appeal a General Division decision "is to be granted if the application for leave to appeal sets out evidence that was not presented to" the General Division.

[27] I'll call this the new evidence test.

[28] The new evidence test is relatively new, in effect since December 2022. The Federal Courts have considered it in one decision. The Federal Court decided it was reasonable for the Appeal Division to include relevance or arguable relevance as part of the new evidence test.¹⁶ Because relevance is a bedrock principle of how law understands and treats evidence.

¹⁵ See section 52(2) of the DESD Act.

¹⁶ See *Kryklywicz v Canada (Attorney General)*, 2026 FC 36 at paragraphs 67 to 69. At paragraph 67, Mr Justice Gleason writes: "It is unfortunate that the AD fails to address, even briefly, the broad language of paragraph 58.1(c) of the DESDA – '[l]eave to appeal... is to be granted if the application for leave to appeal...sets out evidence that was not presented to the Section'—in adopting the position that the evidence 'not presented to the Section' must be relevant or indeed arguably relevant. However, I am not prepared to conclude the AD's failure to do so undermines the reasonableness of the decision in this instance."

[29] Based on the legal issues at the General Division, it's reasonable to include relevance or arguable relevance in the new evidence test the Claimant has to meet to get permission to appeal.

– **The Claimant's new evidence isn't relevant, so I can't give her permission to appeal**

[30] There were two, related legal issues in the Claimant's General Division appeal.

- How long did it take the Claimant to appeal the Minister's reconsideration decision after it was communicated to her?¹⁷
- If she missed the 90-day deadline to file her appeal, did the General Division have the power to extend the deadline?¹⁸

[31] The new evidence the Claimant set out in her application isn't relevant or arguably relevant to either issue.

[32] The Claimant describes new medical evidence—a referral to a rheumatologist and new medical test results.¹⁹ She is relying on this evidence to help show she qualifies for a CPP disability pension.

[33] But that's not an issue I can look at when I decide whether to give her permission to appeal. Because she made her appeal after a year had passed, the General Division had no power to extend the deadline. There's no arguable case the General Division made an error in making that decision. So she lost the right to have the Tribunal decide whether she qualifies for a CPP disability pension.

¹⁷ See section 52(1)(b) of the DESD Act.

¹⁸ See section 52(2) of the DESD Act.

¹⁹ See AD3-3.

Conclusion

[34] The Claimant hasn't shown an arguable case the General Division made an error. And the new evidence she described in her application isn't relevant to a legal issue in her appeal.

[35] Because she's representing herself, I looked at whether there was an arguable case the General Division made a legal error or a factual error. But I didn't find an arguable case.

[36] This means I can't give her permission to appeal.

Glenn Betteridge
Member, Appeal Division