

Citation: *A. K. v. Canada Employment Insurance Commission*, 2015 SSTAD 1225

Date: October 16, 2015

File number: AD-15-107

APPEAL DIVISION

Between:

A. K.

Applicant

and

Canada Employment Insurance Commission

Respondent

Decision by: Shu-Tai Cheng, Member, Appeal Division

REASONS AND DECISION

INTRODUCTION

[1] On July 12, 2012, the Board of Referees (Board) determined that the claimant (Applicant) did not have just cause for voluntarily leaving his employment and that the Canada Employment Insurance Commission (Commission) exercised its discretion properly with respect to the imposition of a penalty and notice of violation, under the *Employment Insurance Act*.

[2] The Applicant filed documents with the Appeal Division of the Tribunal, which were treated as an application for leave to appeal (Application), on January 20, 2015 and March 5, 2015, beyond the time limit to do so or which appears to have been beyond the time limit set out in paragraph 57(1)(a) of the *Department of Employment and Social Development Act* (DESD Act).

ISSUE

[3] The Member must decide if an extension of time to make the application should be granted.

LAW AND ANALYSIS

[4] Pursuant to paragraph 57(1) and (2) of the DESD Act, an application must be made to the Appeal Division within 30 days after the day on which the decision appealed from was communicated to the appellant. Further, the Appeal Division may allow further time within which an application for leave is to be made, but in no case may an application be made more than one year after the day on which the decision is communicated to the appellant.

[5] The decision being appealed from is dated July 12, 2012 and was sent to the Applicant under cover of letter dated July 12, 2013.

[6] The Applicant filed a “Notice of Appeal – General Division – Income Security Section – Old Age Security” form and attachments with the Tribunal on January 20, 2015. The Applicant filed a copy of the Board decision, a copy of the reconsideration decision and other documents

in his reconsideration tile, with a letter of February 25, 2015 which was received by the Tribunal on March 5, 2015. The Tribunal treated these documents as an Application to the Appeal Division and confirmed, by letter of March 13, 2015, that a late Application had been received.

[7] The late Application was filed two (2) years and 233 days after the decision was communicated to the Applicant.

[8] The Application states that the Applicant was in a bad accident in 2012 and another in 2013, and due to his injuries, he was not able to appeal the reconsideration decision of the Commission. The Applicant submits that the reconsideration decision was unfair, that he had made a mistake in not reporting vacation pay because he did not know he had to, the amount he is required to pay is increasing due to interest, and he is unable to pay the amount on his part- time salary.

[9] At this juncture, the arguments of the Applicant on the merits of the case are not material. The application for leave to appeal was filed over a year after the expiry of the limitation period in the DESD Act. The Appeal Division cannot extend the filing period beyond a one year period after the day on which the decision is communicated to the appellant. After July 12, 2013, an extension of time in which to file an application for leave to appeal can simply not be granted.

[10] An extension of time to file an application for leave to appeal is denied.

CONCLUSION

[11] An extension of time to apply for leave to appeal is refused.

Shu-Tai Cheng
Member, Appeal Division