



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. B. v. Canada Employment Insurance Commission*, 2016 SSTADEI 333

Tribunal File Number: AD-15-943

BETWEEN:

R. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: June 23, 2016

DECISION

[1] On consent, the appeal is allowed. The required extension of time is granted, and the matter is returned to the General Division to be heard.

INTRODUCTION

[2] A member of the General Division declined to exercise her jurisdiction to grant the Appellant an extension of time to appeal from a previous determination of the Commission.

[3] In due course, the Appellant filed an application for leave to appeal with the Appeal Division and leave to appeal was granted.

[4] This appeal was decided on the record.

THE LAW

[5] According to subsection 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are that:

- (a) the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

ANALYSIS

[6] This appeal concerns whether or not the Appellant should be granted an extension of time to appeal to the General Division.

[7] The Appellant submits that he never received a letter sent by the Tribunal asking him to explain his failure to appeal on time. He repeats that he had good reason for applying late, and asks that I grant him an extension of time.

[8] The Commission notes that the Appellant's appeal was only 12 days late. They also accept that he may not have received the Tribunal letter, and agree that his explanation for the delay is reasonable. They ask that I allow the appeal and, in the interests of justice, give the decision that the General Division should have given and grant the required extension of time.

[9] Given the agreement of the parties, and the uncertainty surrounding whether or not the Appellant received the Tribunal letter, I agree that it is in the interests of justice to allow the appeal and grant the extension of time.

CONCLUSION

[10] For the above reasons and on consent, the appeal is allowed. The required extension of time is granted, and the matter is returned to the General Division to be heard.

Mark Borer

Member, Appeal Division