



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *G. G. v. Canada Employment Insurance Commission*, 2016 SSTADEI 483

Tribunal File Number: AD-16-459

BETWEEN:

**G. G.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

and

**White Eagle Homes Ltd**

Added Party

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**SOCIAL SECURITY TRIBUNAL DECISION**

**Appeal Division**

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EXTENSION OF TIME DECISION BY: Mark Borer

DATE OF DECISION: September 26, 2016

## **DECISION**

[1] On August 6, 2015, a General Division member determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed. On March 21, 2016, the Applicant filed an application requesting leave to appeal to the Appeal Division. The Applicant did not specify when he received the decision.

[2] According to s. 19 of the *Social Security Tribunal Regulations*, a decision is deemed to be communicated to a party 10 days after it was mailed to that party. The decision in this case was mailed to the Applicant on August 6, 2015, and again on December 22, 2015, at the Applicant's request. Given the busy Christmas season, I therefore deem it to have been communicated on or about early January 2016, giving the Applicant the benefit of the doubt and accepting that he did not receive the decision when it was first mailed to him.

[3] As ss. 57(1) of the *Department of Employment and Social Development Act* (the DESDA) establishes that an application for leave to appeal must be filed within 30 days of the underlying decision being communicated to the Applicant, this means that the Applicant's application is approximately five weeks late.

[4] In his initial application, the Applicant did not offer any explanation for this. Instead, the Applicant's application repeated in great detail much of the evidence and submissions already made to the General Division member. While it is clear that he disagreed with the member's decision and asserted that the member erred in fact when he ruled against him, no specific error was set out.

[5] The Applicant has communicated many times with Tribunal staff by telephone. During these calls, the Applicant expressed his view that the process was "fraudulent" and repeatedly demanded that the Tribunal pay him his benefits. A number of these calls were terminated by the Tribunal because the Applicant was verbally abusive and refused to allow the Tribunal to explain the situation.

[6] The Applicant also did not reply to a letter requesting that he offer reasons for his late appeal.

[7] In *X*, 2014 FCA 249, the Federal Court of Appeal in paragraph 26 set out the test to be applied in late appeals in a most clear and succinct form:

“In deciding whether to grant an extension of time to file a notice of appeal, the over-riding consideration is whether the interests of justice favour granting the extension. Relevant factors to consider are whether:

- (a) there is an arguable case on appeal;
- (b) special circumstances justify the delay in filing the notice of appeal;
- (c) the delay is excessive; and
- (d) the respondent will be prejudiced if the extension is granted.”

[8] I find that the Applicant has not offered any explanation or established any special circumstances for the delay. I further find that although the application strongly expresses the Applicant’s opinion that he disagrees with the General Division member’s decision and references the DESDA, it does not articulate any reviewable error on the part of the member and therefore does not raise an arguable case. Although I find that the delay is not excessive and that the Commission would not be prejudiced by allowing an extension of time, taking all factors into consideration I do not believe that it would be in the interests of justice to do so. I therefore decline to exercise my discretion to allow an extension of time to appeal.

[9] As such, this application for leave to appeal cannot be considered as it was filed beyond the time period set out in the DESDA.

*Mark Borer*  
Member, Appeal Division