



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. B. v Canada Employment Insurance Commission*, 2019 SST 1539

Tribunal File Number: GE-19-1419

BETWEEN:

J. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Amanda Pezzutto

DATE OF DECISION: May 7, 2019

REASONS AND DECISION

OVERVIEW

[1] J. B. (Claimant) applied for employment insurance benefits. He made a request for reconsideration, and on June 8, 2017, the Canada Employment Insurance Commission (Commission) issued a reconsideration decision. The Claimant appealed that reconsideration decision to the Social Security Tribunal (Tribunal) on March 12, 2019.

[2] Under section 52(2) of the *Department of Employment and Social Development Act*, in no case may an appeal be brought to the General Division of the Tribunal more than one year after the day on which the Commission's reconsideration decision was communicated to the Claimant.

[3] The Tribunal must decide whether the appeal was brought in time.

ANALYSIS

[4] On a balance of probabilities, the Tribunal finds that the Commission's reconsideration decision was communicated to the Claimant by June 18, 2017.

[5] The Claimant did not state when he received the reconsideration decision letter, and on his notice of appeal, he suggests that he did not receive information about the outcome of his reconsideration request. The Commission did not submit evidence demonstrating that it verbally communicated the reconsideration decision to the Claimant. Given the lack of evidence about when the Claimant received the reconsideration decision letter, the Tribunal asked the Claimant to provide more information about when he learned of the reconsideration decision. However, the Claimant did not respond to the Tribunal's request for more information.

[6] Since the Claimant did not respond to the Tribunal's request for more information, the Tribunal must rely on the available evidence and decide, on a balance of probabilities, when the reconsideration decision was communicated to the Claimant. The Tribunal notes that the Claimant provided an address in Kamloops, British Columbia on his reconsideration request. He submitted the reconsideration request to the Commission

on May 17, 2017. The Commission mailed the reconsideration decision letter to the same address on June 8, 2017. The Tribunal finds that it is likely that the Claimant was still at the same address when the Commission mailed the reconsideration decision letter, and so the Tribunal finds it likely that the Claimant received the reconsideration decision letter by mail within 10 days. As a result, the Tribunal finds, on a balance of probabilities, that the reconsideration decision was communicated to the Claimant by June 18, 2018.

[7] The Tribunal finds that the Claimant brought the appeal to the General Division of the Tribunal on March 12, 2019 because this is the date the Tribunal received the Claimant's notice of appeal. As a result, the Tribunal finds that more than one year passed between when the reconsideration decision was communicated to the Claimant and when the appeal was filed.

[8] The Tribunal must apply subsection 52(2) of the DESD Act which clearly states that in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Claimant.

CONCLUSION

[9] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Amanda Pezzutto
Member, General Division - Employment Insurance Section