



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *Y. L. v Canada Employment Insurance Commission*, 2019 SST 827

Tribunal File Number: GE-19-2587

BETWEEN:

Y. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Yoan Marier

DATE OF DECISION: July 23, 2019

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for Employment Insurance benefits, and a benefit period was established effective July 20, 2014. Almost three years later, the Respondent rendered a decision on the allocation of the Appellant's earnings.

[2] The Appellant disagreed with this decision and requested a reconsideration. On February 7, 2018, the Respondent completed the reconsideration and rendered its decision under section 112 of the *Employment Insurance Act*.

[3] The Appellant is now appealing the Respondent's reconsideration decision to the Tribunal. The Appellant filed his appeal on July 9, 2019.

[4] I must determine whether the appeal was brought within the time specified in the Act.

ANALYSIS

[5] Claimants normally have 30 days to appeal a reconsideration decision made under the *Employment Insurance Act* to the Tribunal's General Division. This deadline is calculated from the day on which the disputed decision is communicated to the claimant.¹

[6] Further time may be allowed in certain cases, but the total time between the day on which the decision is communicated to the claimant and the day on which the appeal is filed with the Tribunal cannot be more than one year.²

[7] The Appellant confirmed that he had received the reconsideration decision on February 16, 2018.³ In accordance with the Act, he therefore had until March 18, 2018, to file his appeal with the Tribunal.

¹ *Department of Employment and Social Development Act (Act)*, s 52(1).

² *Department of Employment and Social Development Act*, s 52(2).

³ GD5-4.

[8] The Tribunal Registry received the notice of appeal on July 9, 2019—nearly 16 months after the deadline.

[9] In the July 9 notice of appeal, the Appellant's representative submits that a first version of the notice of appeal had been sent to the Tribunal on March 16, 2018. In support of this statement, he submitted a copy of an email sent by his office on March 16, 2018, to an address similar to that of the Tribunal.⁴

[10] However, on reading this document, it is clear that the representative used an incorrect email address to submit the first notice of appeal. The address **info.tss-sst@canada.gc.ca** was used, when the correct address to reach the Tribunal Registry is **info.sst-tss@canada.gc.ca**. Therefore, the email sent in March 2018 by the representative never reached its destination.

[11] An appeal is brought by sending the appeal to the address, fax number, or email address provided by the Tribunal on its website.⁵ In the case of an email, the date the appeal is filed is the date that is stamped on the appeal when the Tribunal Registry receives it.⁶ In this case, the appeal was brought only on July 9, 2019, because it was sent to the Tribunal's email address for the first time on that date.

[12] Because the Tribunal Registry had never received the March 2018 notice of appeal, no acknowledgement of receipt of the notice of appeal had been sent to the parties. Therefore, I find it hard to understand why the representative waited such a long time to follow up with the Registry and to resubmit the notice of appeal.

[13] In any case, I do not have discretion in this matter. The Act is clear: I cannot hear an appeal if more than one year has passed between the day on which the disputed decision was communicated to the Appellant (February 16, 2018) and the day on which the appeal was filed (July 9, 2019).

⁴ GD5-1.

⁵ *Social Security Tribunal Regulations*, s 23.

⁶ *Social Security Tribunal Regulations*, s 7.

[14] It is unfortunate that the representative used the incorrect email address to send the documents in March 2018. However, I find that the burden was on the Appellant to submit his notice of appeal to the right place and within the specified timeline. The Appellant was also responsible for following up with the Tribunal Registry if there was any doubt as to the reception of these documents within a reasonable time.

[15] Due to the unreasonably long delay, the Act simply does not allow me to hear this appeal.

CONCLUSION

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

Yoan Marier
Member, General Division – Employment Insurance Section