



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *X v Canada Employment Insurance Commission*, 2019 SST 984

Tribunal File Number: AD-19-596

BETWEEN:

X

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time by: Pierre Lafontaine

Date of Decision: September 13, 2019

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] The Respondent, the Canada Employment Insurance Commission (Commission), investigated the Applicant, X, for issuing a fraudulent record of employment (ROE) to X (X). X reported that she never worked for the Applicant. The Commission investigated, and concluded that the ROE was issued for work that was never performed. The Commission further concluded that the Applicant knowingly provided false information when it issued the ROE and during the Commission's investigation, and imposed a penalty on the Applicant for \$16,888.00 pursuant to subsection 39(1) of the *Employment Insurance Act* (EI Act) for doing so.

[3] The Applicant asked the Commission to reconsider the decision and penalty on the basis that X had worked for the company and was paid for her work in cash. The Commission maintained its decision to impose a penalty upon the Applicant for knowingly providing false information, but reduced the penalty to \$15,277.00. The Applicant appealed the reconsideration decision to the General Division.

[4] The General Division concluded that a penalty had to be imposed upon the Applicant pursuant to subsection 39(1) of the EI Act for knowingly making false representations in connection with the ROE issued to X.

[5] The Applicant now seeks leave to appeal of the General Division's decision to the Appeal Division. It puts forward that the General Division based its decision on facts that are incorrect because the investigators did not compile the correct information and facts.

[6] The Tribunal must decide whether it will grant the Applicant an extension of time to apply for leave to appeal.

[7] The Tribunal refuses to grant the Applicant an extension of time to apply for leave to appeal.

ISSUE

[8] Should the Applicant be granted an extension of time to apply for leave to appeal?

ANALYSIS

Issue: Should the Applicant be granted an extension of time to apply for leave to appeal?

[9] The Applicant, in its application for leave to appeal filed on August 29, 2019, states that during a major cleanup on July 31, 2019, it found a package from the Tribunal. The Applicant is therefore submitting an application for leave to appeal within the 30 days of its reception.

[10] The General Division decision was rendered on July 31, 2018, and sent to the parties on August 1, 2018. The record shows that the Applicant contacted the Tribunal on August 23, 2018, to obtain a leave to appeal form. The form was sent to the email given by the Applicant. The Tribunal notes that the email given by the Applicant at that time is identical to the one-mentioned in the Applicant's form to appeal to the General Division.

[11] Furthermore, the record shows that the Applicant called on July 9, 2019, requesting information on appealing the General Division decision. This is inconsistent with its statement that it only discovered the package on July 31, 2019.

[12] The record clearly shows that the General Division decision was communicated to the Applicant on or before August 23, 2018. The Applicant filed an application for leave to appeal on August 29, 2019.

[13] Section 57(2) of the DESD Act states that in no case may an appeal be brought to the Appeal Division more than one year after the day on which the General Division's decision is communicated to the appellant.

[14] Furthermore, section 57(2) of the DESD Act does not allow any discretion to the Tribunal to extend further than one year the delay to appeal to the Appeal Division.

[15] For the above-mentioned reasons, the Tribunal has no choice but to refuse to grant the Applicant an extension of time to apply for leave to appeal.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division

REPRESENTATIVE:	X, representative of the Applicant
-----------------	------------------------------------