



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *R. S. v Canada Employment Insurance Commission*, 2019 SST 1319

Tribunal File Number: GE-19-3466

BETWEEN:

**R. S.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Josée Langlois

DATE OF DECISION: October 21, 2019

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant, R. S., applied for Employment Insurance benefits on January 18, 2019. On April 11, 2019, the Canada Employment Insurance Commission (Commission) informed the Appellant that it could not pay him benefits as of January 22, 2019, because he had stopped working due to misconduct. After a request for a reconsideration, the Commission gave a decision on June 17, 2019, indicating that it had not changed its decision.

[2] The Appellant appealed that decision on October 7, 2019, after the limitation period set out in section 52(1) of the *Department of Employment and Social Development Act* (DESD Act) had ended.

[3] I must determine whether I will grant the Appellant an extension of time to appeal under section 52(2) of the DESD Act.

### ANALYSIS

[4] To decide whether additional time to appeal should be granted, I considered four factors.<sup>1</sup> The importance to be given to each of the factors stated in *Gattellaro* varies depending on the circumstances, and, in some cases, other factors are also relevant. The overriding consideration is whether granting an extension of time would be in the interests of justice.<sup>2</sup>

[5] The Appellant does not justify his delay in filing his notice of appeal. However, he explains that his dismissal was unfair.

[6] I give significant weight to the fact that the Appellant presented an arguable case on appeal. The issue is whether the Appellant stopped working because of misconduct.

[7] I find that, in a spirit of natural justice, the Appellant's explanations must be heard, and he must be allowed to present his arguments on the termination of his employment. It is not

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<sup>1</sup> *Canada (Minister of Human Resources Development) v Gattellaro*, 2005 FC 883.

<sup>2</sup> *Canada (Attorney General) v Larkman*, 2012 FCA 204; also refer to *Jama v Canada (Attorney General)*, 2016 FC 1290, which confirmed this approach when considering whether an extension of time should be granted.

apparent from a reading of the file that the appeal is bound to fail; rather, the matter discloses an arguable case.

[8] Given that the Commission has already submitted its documents and observations concerning the appeal, I am satisfied that it would not be prejudiced if the case were heard.

### **CONCLUSION**

[9] I find that it is in the interests of justice to extend the time to file the appeal.

Josée Langlois  
Member, General Division – Employment Insurance Section