



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *R. C. v Canada Employment Insurance Commission*, 2020 SST 92

Tribunal File Number: AD-20-22

BETWEEN:

**R. C.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Decision on Request for Extension of Time by: Jude Samson

Date of Decision: February 7, 2020

## DECISION AND REASONS

### DECISION

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

### OVERVIEW

[2] R. C. is the Claimant in this case. She made a claim for Employment Insurance (EI) regular benefits in February 2009. The Canada Employment Insurance Commission approved that application and then paid benefits to the Claimant over several weeks.

[3] In 2013, however, the Commission disqualified the Claimant from receiving EI benefits, and did so from June 20, 2009. The Commission determined that, on that date, the Claimant voluntarily left a job without just cause.<sup>1</sup> As a result, the Commission demanded that the Claimant repay some of the EI benefits that she had received.

[4] The Claimant appealed the Commission's decision to the Tribunal's General Division, but it dismissed her appeal. The Claimant successfully appealed the General Division's first decision to the Tribunal's Appeal Division, and it sent the file back to the General Division for reconsideration. The Claimant now wants to appeal the General Division's second decision—the one dated September 12, 2016—but her application to the Appeal Division appears to be late.

[5] I must now decide whether the Claimant's application to the Appeal Division is, in fact, late. If so, can I extend the time for the Claimant to bring this appeal? Unfortunately for the Claimant, I have concluded that her appeal is late and that I have no power to grant an extension of time in this case. These are the reasons for my decision.

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<sup>1</sup> In this context, "just cause" has a very specific meaning. It is defined in section 29(c) of the *Employment Insurance Act* (EI Act). Section 30 of the EI Act establishes the Commission's powers to disqualify claimants from receiving EI benefits.

## ISSUES

[6] As part of this decision, I focused on the following questions:

- a) Was the Claimant late in filing her application to the Appeal Division?
- b) If so, can I grant the Claimant an extension of time?

### **Issue 1: Was the Claimant late in filing her application to the Appeal Division?**

[7] Yes, the Claimant filed her application to the Appeal Division late.

[8] The Claimant's application to the Appeal Division was due within 30 days of when she received the General Division decision.<sup>2</sup>

[9] In this case, the Tribunal sent the General Division decision to the Claimant by mail on September 14, 2016.<sup>3</sup> I can assume that the Claimant received the General Division decision 10 days later: on Monday, September 26, 2016.<sup>4</sup>

[10] The Claimant's application to the Appeal Division was due, therefore, on October 26, 2016. Instead, however, the Tribunal received it on December 31, 2019, over three years late.<sup>5</sup> Indeed, the Claimant does not dispute that she was late filing her application to the Appeal Division. Instead, she provided reasons explaining the delay.<sup>6</sup>

### **Issue 2: Can I grant the Claimant an extension of time?**

[11] No, I do not have the power to grant an extension of time in this case.

[12] I only have the powers that the *Department of Employment and Social Development Act* (DESD Act) gives me. In particular, section 57(2) of the DESD Act makes very clear that I can

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<sup>2</sup> Section 57(1)(a) of the *Department of Employment and Social Development Act* establishes this time limit.

<sup>3</sup> See the Tribunal's cover letter that was sent with the General Division decision.

<sup>4</sup> Section 19(1)(a) of the *Social Security Tribunal Regulations*.

<sup>5</sup> ADN1.

<sup>6</sup> See, for example, ADN1B, ADN1C, and ADN1D.

only extend the time for filing an application to the Appeal Division when that application is less than a year late.

[13] As a result, I cannot consider the Claimant's explanations, regardless of how compelling they might be. Since the Claimant's application to the Appeal Division is over three years late, I have no power to grant the extension of time that she needs.

**CONCLUSION**

[14] Although I sympathize with the Claimant's circumstances, I have concluded that I cannot allow the extension of time that she needs for her file to move forward.

[15] The Claimant's request for an extension of time is refused.

Jude Samson  
Member, Appeal Division

REPRESENTATIVE:	R. C., self-represented
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## **Relevant Sections of the Law**

### ***Department of Employment and Social Development Act***

#### **Appeal — time limit**

**57 (1)** An application for leave to appeal must be made to the Appeal Division in the prescribed form and manner and within,

(a) in the case of a decision made by the Employment Insurance Section, 30 days after the day on which it is communicated to the appellant; and

(b) in the case of a decision made by the Income Security Section, 90 days after the day on which the decision is communicated to the appellant.

#### **Extension**

(2) The Appeal Division may allow further time within which an application for leave to appeal is to be made, but in no case may an application be made more than one year after the day on which the decision is communicated to the appellant.

### ***Social Security Tribunal Regulations***

#### **When decisions deemed communicated**

**19 (1)** A decision made under subsection 53(1), 54(1), 58(3), 59(1) or 66(1) of the Act is deemed to have been communicated to a party

(a) if sent by ordinary mail, 10 days after the day on which it is mailed to the party;