



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. D. v Canada Employment Insurance Commission*, 2020 SST 428

Tribunal File Number: GE-20-1302

BETWEEN:

N. D.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Catherine Shaw

DATE OF DECISION: May 11, 2020

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for employment insurance benefits on December 6, 2018. The Canada Employment Insurance Commission (Commission) decided the Appellant did not have enough hours of insurable employment to qualify for benefits. It issued her a letter on December 7, 2018, explaining that she had 443 hours of insurable employment in her qualifying period and that she needed 600 hours to qualify for benefits.

[2] The Appellant requested a reconsideration of this decision on December 14, 2018. She said she was unable to accumulate enough hours because of her ongoing illness. The Commission maintained its decision but renewed the Appellant's previous claim to allow for payment of three weeks of sickness benefits. The Commission sent the Appellant a reconsideration decision on January 25, 2019, stating that a benefit period had not been established for the Appellant based on her December 2018 application. The Appellant filed an appeal of that decision with the Social Security Tribunal on May 5, 2020.

[3] Under subsection 52(2) of the *Department of Employment and Social Development Act* (DESD 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 Respondent's reconsideration decision was communicated to the Appellant.

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

ANALYSIS

[5] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant by February 4, 2019.

[6] The Tribunal notes that the January 25, 2019, decision letter was sent to the same address the Appellant used on her reconsideration request and her notice of appeal. The Tribunal finds this supports the Appellant would have received the January 25, 2019, decision letter. The Appellant does not dispute that she received the reconsideration decision by mail. Rather, she was delayed in appealing the decision for medical reasons.

[7] The Tribunal finds it reasonable that the decision letter would have been delivered within ten days of its date of issuance. This means the Appellant would have received the decision letter by February 4, 2019.

[8] The Appellant sent her notice of appeal to the Tribunal by e-mail on May 5, 2020. Therefore, the Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal on May 5, 2020.

[9] The Tribunal finds that more than one year passed between when the reconsideration decision was communicated to the Appellant and when the appeal was filed.

[10] 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 Appellant.

CONCLUSION

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

Catherine Shaw
Member, General Division - Employment Insurance Section