



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *DG v Canada Employment Insurance Commission*, 2020 SST 1078

Tribunal File Numbers: AD-20-861
AD-20-862

BETWEEN:

D. G.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Request for Extension of Time Pierre Lafontaine
by:

Date of Decision: December 23, 2020

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] The Applicant (Claimant) received Employment Insurance benefits in 2014, 2017, and 2018. The Canada Employment Insurance Commission (Commission) later discovered that he worked while on benefits. The Commission found that he knowingly made false statements when he reported that he did not work or receive earnings. On reconsideration, the Commission made the following two decisions:

- a) For the false statements made in 2014, the Commission imposed a warning.
- b) For the false statements made between December 2017 and April 2018, the Commission imposed a penalty of \$1,149.

[3] The Claimant appealed the reconsideration decisions to the Tribunal's General Division.

[4] The General Division determined that the Claimant knowingly made false or misleading statements for the benefit periods at issue. It found that the penalties were justified and that the Commission had exercised its discretion judicially when it imposed the penalties.

[5] The Claimant now seeks leave from the Tribunal to appeal the General Division decision. He submits that the penalties should be removed.

[6] I must decide whether to allow the late application and, if so, whether to grant leave to appeal.

[7] I am of the view that the Claimant should be denied an extension of time to apply for leave to appeal.

ISSUES

[8] Should an extension of time be granted so that the Claimant can file his application for leave to appeal?

[9] If so, does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

ANALYSIS

Issue 1: Should an extension of time be granted so that the Claimant can file his application for leave to appeal?

[10] When deciding whether to grant an extension of time to file an application for leave to appeal, I must determine whether granting this extension is in the interests of justice.

[11] The relevant factors to consider are whether:

- a) the appeal discloses an arguable case;
- b) special circumstances justify the delay in filing the notice of appeal;
- c) the delay is excessive; and
- d) the Commission will be prejudiced if the extension is granted.

[12] Although the Commission would not be prejudiced by granting an extension of time to file the application for leave to appeal, I consider that the eight-month delay before the Claimant filed the application is excessive. There are no special circumstances that would have prevented the Claimant from filing his application for leave to appeal on time. The Claimant's explanation for not filing his application until November 30, 2020, is that he changed addresses in the meantime. Yet, on March 24, 2020, he called the

Tribunal to obtain explanations following the General Division decision of March 11, 2020, and to find out what the next steps were.¹

[13] Furthermore, I am not satisfied that the Claimant has an arguable case or that the appeal has a reasonable chance of success.

[14] The General Division determined that the Claimant knowingly made false or misleading statements for the benefit periods at issue. It found that the penalties were justified and that the Commission exercised its discretion judicially when it imposed the penalties.

[15] The Claimant told the Commission that he worked while on benefits but that he answered no in his reports to receive more money because he was in a dire financial situation.² In another interview, he told the Commission that he had acted to survive financially.³

[16] At the General Division hearing, the Claimant said that, during the period at issue, he kept losing jobs, had children to feed, and needed money to survive. He stated that he did not have enough income and that he would have done anything to care for his children.⁴

[17] In the face of this evidence, the General Division had no choice but to find that the Claimant had knowingly made false or misleading statements. In addition, the Claimant did not provide further facts or submissions at the hearing that could satisfy the General Division that the Commission had not considered all the circumstances in exercising its discretion.

[18] I am of the view that the Claimant has not identified any errors of jurisdiction or law that the General Division may have made, or any erroneous findings of fact that it

¹ File AD-20-861.

² GD3-33, file AD-20-861.

³ GD3-85, file AD-20-862.

⁴ Para 16 of the General Division decision of March 11, 2020.

may have made in a perverse or capricious manner or without regard to the material before it in making its decision.

[19] After considering the above factors, I am not satisfied that granting an extension of time is in the interests of justice.

CONCLUSION

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

Pierre Lafontaine
Member, Appeal Division

REPRESENTATIVE:	D. G., self-represented
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