



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *TB v Canada Employment Insurance Commission*, 2021 SST 77

Tribunal File Number: GE-21-129

BETWEEN:

**T. B.**

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: Catherine Shaw

DATE OF DECISION: February 9, 2021

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant applied for employment insurance benefits. Further to a request for reconsideration, on June 4, 2019, the Respondent issued a decision under section 112 of the *Employment Insurance Act* (Act). The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on January 28, 2021.

[2] 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.

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

### ANALYSIS

[4] I find that the Respondent's reconsideration decision was communicated to the Appellant by June 14, 2019.

[5] The Respondent provided records of a telephone conversation with the Appellant dated June 4, 2019. In this conversation, an agent of the Respondent informs the Appellant that the decision regarding his claim is maintained. The agent also advises the Appellant of his right to appeal that decision to the Tribunal. I find this conversation supports that the Respondent communicated the reconsideration decision to the Appellant by telephone on June 4, 2019.

[6] The Respondent sent the Appellant a written copy of the reconsideration decision dated June 4, 2019. This decision was sent to the same mailing address that the Appellant used on his request for reconsideration in February 2019. I find that this supports that the Appellant most likely received the reconsideration decision in the mail. It is reasonable that this decision letter would have been delivered within ten days of its issuance. So it is most likely the Appellant would have received the decision letter by June 14, 2019.

[7] The Appellant stated on his notice of appeal to the Tribunal that he received the reconsideration decision on January 14, 2021. It is most likely the Appellant was referring to the Respondent's letter dated January 14, 2021. This letter is not the reconsideration decision in question. Rather, it advises the Appellant that the Respondent cannot proceed with a reconsideration as a decision had already been made on June 4, 2019.

[8] The evidence before me indicates that the Respondent communicated the reconsideration decision to the Appellant by telephone on June 4, 2019, and by mail by June 14, 2019. So, I find the reconsideration decision was communicated to the Appellant by June 14, 2019, at the latest.

[9] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal on January 28, 2021. 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