



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *DM v Canada Employment Insurance Commission*, 2021 SST 566

Tribunal File Number: GE-21-1144

BETWEEN:

D. M.

Claimant

and

Canada Employment Insurance Commission

Commission

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Audrey Mitchell

DATE OF DECISION: July 12, 2021

REASONS AND DECISION

OVERVIEW

[1] The Claimant applied for employment insurance (EI) benefits. Further to a request for reconsideration, on May 15, 2020, the Commission issued a decision under section 112 of the *Employment Insurance Act* (Act). The Claimant appealed that decision to the Social Security Tribunal (Tribunal) on June 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 Commission's reconsideration decision was communicated to the Claimant.

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

ANALYSIS

[4] I find that the Commission's reconsideration decision was communicated to the Claimant on May 15, 2020. In her notice of appeal, when asked when she received the Commission's reconsideration decision, the Claimant says that she did not receive any mail.

[5] The Claimant states in her reasons for her appeal that a female agent of the Commission called her. She said this happened when she had been getting EI benefits for a while. The Claimant said the agent told her that her EI benefits would be cut off. I find that this is consistent with the Commission's notes from May 15, 2020. A female agent told the Claimant that they were disqualifying her from benefits. The agent recorded in her notes that she also explained to the Claimant her right to appeal the reconsideration decision.

[6] I find that the Claimant brought the appeal to the General Division of the Tribunal on June 28, 2021. This is the same date of the email the Claimant sent the Tribunal, to which she attached the notice of appeal. There is no signature on the notice of appeal, but it is dated June 28, 2021. I find that more than one year passed between when the

reconsideration decision was communicated to the Claimant and when the appeal was filed.

[7] I 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 Claimant.

CONCLUSION

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

Audrey Mitchell
Member, General Division - Employment Insurance Section