



[TRANSLATION]

Citation: *IS v Canada Employment Insurance Commission*, 2021 SST 805

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:**

I. S.

**Respondent:**

Canada Employment Insurance Commission

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**Decision under appeal:**

General Division decision dated  
November 18, 2021 (GE-21-1808)

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**Tribunal member:**

Pierre Lafontaine

**Decision date:**

December 31, 2021

**File number:**

AD-21-419

## Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

## Overview

[2] The Applicant (Claimant) made a renewal claim for benefits. This renewal was made effective April 11, 2021. On May 4, 2021, the Claimant asked for an antedate to February 26, 2021. To explain the delay in making his renewal claim, the Claimant said that he had made a mistake, that he was not familiar with how EI worked, and that it was very difficult to do things properly.

[3] The Commission denied the Claimant's request. The Claimant requested a reconsideration of this decision, but the Commission upheld its initial decision. The Claimant appealed the reconsideration decision to the Tribunal's General Division.

[4] The General Division found that a reasonable and prudent person would have quickly contacted the Commission after realizing they had not gotten their benefits after eight weeks, especially since the Claimant admitted to having limits with computers. The General Division decided that the Claimant had not proven that he had good cause for the delay in making his claims for benefits throughout the entire period of the delay. As a result, there was no reason to grant the antedate request.

[5] The Claimant seeks leave from the Appeal Division to appeal the General Division decision. He argues that he does not have the skills needed to follow the process online and that the only easy option is to go directly to the Commission's office.

[6] I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[7] I am refusing leave to appeal because the Claimant has not raised a ground of appeal based on which the appeal has a reasonable chance of success.

## Issue

[8] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

## Analysis

[9] Section 58(1) of the *Department of Employment and Social Development Act* specifies the only grounds of appeal of a General Division decision. These reviewable errors are the following:

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

[10] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met at the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove his case; he must instead establish that the appeal has a reasonable chance of success. In other words, he must show that there is arguably a reviewable error based on which the appeal might succeed.

[11] I will grant leave to appeal if I am satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

## **Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?**

[12] The Claimant argues that he does not have the skills needed to follow the process online and that the only easy option is to go directly to the Commission's office.

[13] The law says that a claim for benefits made after the time prescribed for making the claim will be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.<sup>1</sup>

[14] To establish good cause under the law, a claimant must be able to show that they did what a reasonable person in their situation would have done to find out about their rights and obligations.

[15] The General Division found that a reasonable and prudent person would have quickly contacted the Commission after realizing they had not gotten their benefits after eight weeks, especially since the Claimant lacks computer skills.

[16] The General Division decided that the Claimant had not proven that he had good cause for the delay in making his claim for benefits throughout the entire period of the delay. As a result, there was no reason to grant the antedate request.

[17] A reasonable and prudent person in the Claimant's situation, aware of their limits with computers, would have taken the necessary steps to contact the Commission to file a renewal claim for benefits as soon as possible.

[18] The evidence shows that the Claimant did not act quickly because he thought he was not entitled to benefits for the week of February 26, 2021. The Claimant should have taken reasonable steps with the Commission to confirm his personal beliefs and file a renewal claim for benefits as soon as possible.

[19] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for leave to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

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<sup>1</sup> See section 10(5) of the *Employment Insurance Act*.

## **Conclusion**

[20] Leave to appeal is refused. The appeal will not proceed.

Pierre Lafontaine  
Member, Appeal Division