



[TRANSLATION]

Citation: *JT v Canada Employment Insurance Commission*, 2022 SST 795

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

# **Extension of Time and Leave to Appeal Decision**

**Applicant:** J. T.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated  
March 23, 2022 (GE-22-471)

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**Tribunal member:** Pierre Lafontaine

**Decision date:** August 22, 2022

**File number:** AD-22-470

## **Decision**

[1] An extension of time to apply for leave to appeal is refused.

## **Overview**

[2] The Applicant (Claimant) left her management position on June 4, 2021, and applied for Employment Insurance benefits. The Respondent (Commission) looked at the Claimant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it was not able to pay her benefits. The Claimant appealed the reconsideration decision to the General Division.

[3] The General Division found that the Claimant had chosen to leave her job. It found that the Claimant's desire to improve her financial situation was not just cause for leaving her job. The General Division decided that the Claimant did not have just cause for leaving within the meaning of the law.

[4] The Claimant seeks leave from the Appeal Division to appeal the General Division decision. She says that she cannot afford to pay back the amount the Commission is asking her to repay.

[5] I have to decide whether to allow the Applicant's late application and, if so, whether to grant leave to appeal.

[6] I find that the Claimant should be refused an extension of time to apply for leave to appeal.

## **Issues**

[7] Issue 1: Should an extension of time be granted so that the Claimant can apply for leave to appeal?

[8] Issue 2: 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 apply for leave to appeal?**

[9] When deciding whether to extend the time for filing an application for leave to appeal, I have to determine whether granting an extension is in the interests of justice.

[10] 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
- d) the Commission will be prejudiced if the extension is granted

[11] Although there would be no prejudice to the Commission in extending the time for filing the application for leave to appeal, the four-month period that elapsed before the Claimant filed her application is, in my view, excessive.

[12] There are no special circumstances that would have prevented the Claimant from filing her application for leave to appeal on time. She just says that she wants to revisit the General Division decision because she cannot afford to pay back the amount she owes the Commission.

[13] In addition, 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 found that the Claimant had chosen to leave her job. It found that the Claimant's desire to improve her financial situation was not just cause for leaving her job. The General Division decided that the Claimant did not have just cause for leaving within the meaning of the law.

[15] As the General Division noted, while it is legitimate for an individual “to want to improve his life by changing employers or the nature of his work, he cannot expect those who contribute to the employment insurance fund to bear the cost of that legitimate desire.”<sup>1</sup> Wanting to leave your job to improve your financial situation is not just cause within the meaning of the law.<sup>2</sup>

[16] I find 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 may have made in a perverse or capricious manner or without regard for the material before it in making its decision.

[17] It is also well established that the Tribunal does not have the jurisdiction to write off an applicant’s debt. Only the Commission has the power to write off an overpayment of benefits.<sup>3</sup>

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

## **Conclusion**

[19] An extension of time to apply for leave to appeal is refused.

[20] I recommend that the Commission consider the Applicant’s application for leave to appeal as a formal request to write off the debt, and make a decision on this issue.<sup>4</sup>

Pierre Lafontaine

Member, Appeal Division

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<sup>1</sup> *Canada (Attorney General) v Langlois*, 2008 FCA 18; *Canada (Attorney General) v Langevin*, 2011 FCA 163.

<sup>2</sup> *Canada (Attorney General) v Richard*, 2009 FCA 122; *Canada (Attorney General) v Lapointe*, 2009 FCA 147.

<sup>3</sup> *MM v Canada Employment Insurance Commission*, 2019 SST 337.

<sup>4</sup> See AD1-1.