



Citation: *KS v Canada Employment Insurance Commission*, 2022 SST 892

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

### **Extension of Time Decision**

<b>Applicant:</b>	K. S.
<b>Respondent:</b>	Canada Employment Insurance Commission
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<b>Decision under appeal:</b>	General Division decision dated March 5, 2020 (GE-20-495)
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<b>Tribunal member:</b>	Jude Samson
<b>Decision date:</b>	September 12, 2022
<b>File number:</b>	AD-22-438

## Decision

[1] K. S. is the Claimant in this case. I am unable to give her an extension of time to apply for leave (permission) to appeal. Her appeal will not proceed.

## Overview

[2] The Canada Employment Insurance Commission (Commission) paid Employment Insurance (EI) benefits to the Claimant after she lost her job. However, the Claimant sued her former employer for wrongful dismissal and the parties later agreed to settle the case.

[3] The Commission considered some of the monies the Claimant received as part of the settlement and recalculated her EI benefits. Because of the settlement, the Commission decided that it had overpaid the Claimant by more than \$9,000.

[4] The Claimant appealed the Commission's decision to the Tribunal's General Division, which made a small change to the Commission's calculations.

[5] The Claimant is now applying for permission to appeal the General Division decision to the Tribunal's Appeal Division. But her application is over a year late. As a result, I'm unable to give her more time to apply for permission to appeal.

## Issues

[6] I need to decide the following issues:

- a) Was the Claimant's application to the Appeal Division late?
- b) If so, can I extend the time for her to apply for permission to appeal?

## Analysis

### The application was late

[7] The Tribunal sent the General Division decision to the Claimant by email on Friday, March 6, 2020. The Claimant doesn't remember when she received it.<sup>1</sup> I will assume, then, that she received it on Monday, March 9, 2020.<sup>2</sup>

[8] The Claimant's application to the Appeal Division was due 30 days later, on April 8, 2020.<sup>3</sup> However, the Tribunal received it on July 15, 2022. So, the Claimant's application is over two years late.

### I cannot extend the time for filing the application

[9] Unfortunately for the Claimant, I do not have the power to grant an extension of time in this case because her application is over a year late.<sup>4</sup>

## Conclusion

[10] I cannot give the Claimant more time to apply for permission to appeal. This means that her appeal cannot proceed.

Jude Samson  
Member, Appeal Division

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<sup>1</sup> See page AD1B-2.

<sup>2</sup> Section 19(1)(c) of the *Social Security Tribunal Regulations* allows me to make this assumption.

<sup>3</sup> Section 57(1)(a) of the *Department of Employment and Social Development Act* establishes this timeline.

<sup>4</sup> Section 57(2) of the *Department of Employment and Social Development Act* limits my powers in this way.