



[TRANSLATION]

Citation: *JG v Canada Employment Insurance Commission*, 2023 SST 437

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

# **Leave to Appeal Decision**

**Applicant:** J. G.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** General Division decision dated  
February 10, 2023 (GE-22-3400)

---

**Tribunal member:** Pierre Lafontaine

**Decision date:** April 14, 2023

**File number:** AD-23-196

## Decision

[1] Permission to appeal is refused. The appeal will not proceed.

## Overview

[2] On January 15, 2018, the Respondent (Commission) made a reconsideration decision about voluntary leaving on the part of the Applicant (Claimant). It upheld its November 20, 2017, initial decision disqualifying the Claimant from receiving benefits because of voluntary leaving without just cause.

[3] On April 16, 2019, at the Claimant's request, the Commission sent her the notice of decision concerning the January 15, 2018, reconsideration request and the November 20, 2017, notice of decision.

[4] On July 4, 2022, the Claimant again asked the Commission to reconsider the January 15, 2018, reconsideration decision. The Commission refused to reconsider this decision, since a decision had already been made and there were no new facts.

[5] On September 23, 2022, the Claimant filed a notice of appeal to the Tribunal's General Division.

[6] The General Division found that it had no choice but to apply the law, which says that the General Division may allow up to one year to appeal after the reconsideration decision is communicated.<sup>1</sup>

[7] The Claimant now seeks permission from the Appeal Division to appeal the General Division decision. She argues that it is not her fault that she is late. She went through difficult times in terms of her mental health. She is asking the Tribunal to understand her situation and not consider just the delay issue.

---

<sup>1</sup> See section 52(2) of the *Department of Employment and Social Development Act*.

[8] 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.

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

## **Issue**

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

## **Analysis**

[11] 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 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.

[12] An application for permission 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 permission to appeal stage, the Claimant does not have to prove her case; she must instead establish that the appeal has a reasonable chance of success. In other words, she must show that there is arguably a reviewable error based on which the appeal might succeed.

[13] I will give permission 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?**

[14] The Claimant argues that it is not her fault that she is late. She went through difficult times in terms of her mental health. She is asking the Tribunal to understand her situation and not consider just the delay issue.

[15] The Commission made its reconsideration decision on January 15, 2018. The Claimant received the Commission's reconsideration decision again in April 2019. She filed her notice of appeal four years later, on September 23, 2022.

[16] This means that more than one year passed between the time the Commission's January 15, 2018, reconsideration decision was communicated to the Claimant and the time the Claimant duly appealed it to the General Division.

[17] I sympathize with the Claimant. However, the law clearly says that the General Division may allow up to one year to appeal.

[18] Unfortunately, the law does not give the Tribunal the discretion to allow more than one year to appeal to the General Division, not even on compassionate grounds like those raised by the Claimant.<sup>2</sup>

[19] For the reasons I have mentioned above and after reviewing the appeal file, the General Division decision, and the Claimant's arguments in support of her application for permission to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

---

<sup>2</sup> *BT v Canada Employment Insurance Commission*, 2017 CanLII 91786 (SST).

## **Conclusion**

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

Pierre Lafontaine  
Member, Appeal Division