



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *CS v Canada Employment Insurance Commission*, 2023 SST 1446
Tribunal File Number: GE-23-888

BETWEEN:

C. S.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Leanne Bourassa

DATE OF DECISION: June 27, 2023

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for employment insurance benefits. Further to a request for reconsideration, on December 31, 2021 the Respondent issued a decision under section 112 of the *Employment Insurance Act* (Act). The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on March 22, 2023.

[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 Respondent's reconsideration decision was communicated to the Appellant.

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

ANALYSIS

[4] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant on December 31, 2021. The Commission's notes show that on that day, they had a conversation with the Appellant explaining that after reconsiderations, the decision that it was not able to pay her benefits starting March 7, 2021 because she had left her employment on March 13, 2021 without just cause, would be maintained.¹

[5] This was followed with a letter dated December 31, 2021 confirming that after reconsideration, the decision that the Respondent was not able to pay benefits because the Appellant had left her job voluntarily without just cause was maintained.²

[6] The Tribunal also notes that in a letter sent to the Appellant on March 28, 2022 regarding a request for Compassionate Care benefits, the Appellant was again informed

¹ See GD3-37

² See GD3-39.

that once she had received all her special benefits, she would not be entitled to regular benefits as she had left her employment on March 13, 2021 without just cause.³

[7] The Tribunal finds that the Appellant brought the appeal of this decision to the General Division of the Tribunal on March 22, 2023. This is the date the document was stamped as received by the Tribunal. It is also the date that appears as “sent” on the email cover page sent with the Notice of Appeal.

[8] In the Notice of Appeal, the Appellant says that she received the “General Division decision” on February 13, 2023.

[9] The file also contains a document that appears to be a mix of a Request for Reconsideration form and a Notice of Appeal to the Tribunal. In this form the Appellant mentions on two occasions that a decision was sent to her on December 31, 2021.⁴ These forms do not appear to have been date stamped as received by the Respondent or the Tribunal.

[10] In the interest of fairness, the Tribunal wrote to the Appellant on April 13, 2023 asking her to confirm if she was appealing the Respondent’s decision of March 7, 2021, if so, when did she receive the letter dated December 31, 2021 and if not, what decision was she seeking to appeal and when was that decision communicated to her.⁵

[11] In response to this request, the Appellant sent to the Tribunal what appears to be an online version of a document sent to her dated January 31, 2023. This letter says that the Respondent had received her request for reconsideration on January 11, 2023, but that it could not follow through with that request because a reconsideration decision had already been rendered on the issue on December 31, 2021.

[12] The Tribunal finds that the evidence shows that the Appellant was verbally advised of the December 31, 2021 decision on December 31, 2021. At that time, she was

³ See GD3-48

⁴ See the documents at GD3-49 – GD3-56. In particular pages GD3-49 and GD3-52.

⁵ See GD7-1 to GD7-4.

also advised that a medical note was required for her to claim Compassionate Care or Family Caregiver benefits.

[13] While the Appellant says that she received the most recent correspondence from the Respondent on February 13, 2023, the evidence shows that she was likely aware of the December 31, 2021 decision when she applied for compassionate care benefits in January 2022. She also acknowledges in later documents that she was aware that the decision had been issued on December 31, 2021.

[14] The Tribunal finds that more than one year passed between when the reconsideration decision was communicated to the Appellant and when the appeal was filed. The Reconsideration decision was communicated on December 31, 2021 and the appeal was filed on March 22, 2023.

[15] The Tribunal 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 Appellant.

[16] The Tribunal notes that on December 31, 2021 the Appellant was also advised for the first time that since she had left her employment because of family responsibilities and she had not shown that the situation had changes allowing her to work again, she would not be entitled to benefit from March 15, 2021.⁶

[17] There is no evidence that this decision has been reconsidered by the Respondent. As such, it is not before the Tribunal at this time.

CONCLUSION

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

Leanne Bourassa
Member, General Division - Employment Insurance Section

⁶ See GD3-41