



Citation: *LP v Canada Employment Insurance Commission and X*, 2023 SST 794

Social Security Tribunal of Canada Appeal Division

Extension of Time Decision

Applicant: L. P.

Respondent: Canada Employment Insurance Commission
Representative:

Added Party: X
Representative: Joyce Zoka

Decision under appeal: General Division decision dated June 18, 2020
(GE-20-1511)

Tribunal member: Stephen Bergen

Decision date: **November 14, 2023**

File number: AD-23-750

Decision

[1] I am refusing the Applicant's request for an extension of time to apply to the Appeal Division. The application will not proceed.

Overview

[2] L. P. is the Applicant. I will call him the Claimant because he made a claim for Employment Insurance benefits after leaving his employment in 2019. The Canada Employment Insurance Commission (Commission) allowed his claim, finding that he had just cause for leaving. The Added Party (the Employer) asked the Commission to reconsider but it would not change its decision.

[3] The Employer successfully appealed to the General Division. In a decision dated June 19, 2020, the General Division found that the Claimant had not had just cause for leaving and it allowed the appeal.

[4] The Claimant applied for leave (permission) to appeal to the Appeal Division on August 3, 2023. His application was late so he needs an extension of time before I can consider his leave to appeal application.

[5] I am refusing the Claimant's request for an extension of time. I cannot allow an appeal to proceed that is more than a year late.

Issues

[6] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) Can I extend the time for filing the application?

Analysis

The application was late

[7] The General Division issued its decision on the Claimant's appeal on June 18, 2020, and mailed it to the Applicant on June 19, 2020.

[8] When the Tribunal sends a document to a party by regular mail, its Rules state that it will consider the recipient to have received the document 10 days after the day it was sent.¹ The Rules also allow that a party can show that this rule should not apply to them.²

[9] The Claimant has given some reasons why he did not apply in a timely manner, but he has said nothing to suggest that he did not receive the decision within 10 days of the date it was sent.

[10] The Application to the Appeal Division form requests applicants to provide information on when they received the General Division decision. The Claimant responded to this question by stating that he could not remember when he received the decision.

[11] The Claimant has not shown me that the Rule should not apply, and so I find that the Claimant received the decision 10 days from when the decision was mailed. This means that the Claimant received a written copy of the General Division decision on June 29, 2020.

[12] The deadline to appeal a decision of the General Division to the Appeal Division is thirty days from the date that it is communicated in writing.³ Thirty days from June 29, 2020, is July 29, 2020.

[13] The Tribunal received the Claimant's application on August 3, 2023.

¹ It says this in section 22(1) of the *Social Security Tribunal Rules of Procedure* (Rules).

² It says this in section 22(4) of the Rules.

³ See section 57(1)(a) of the *Department of Employment and Social Development Act* (DESDA).

[14] The application is late by approximately three years.

I cannot extend the time for filing the application

[15] No matter what the Claimant's reasons for applying late, I do not have the power to grant an extension of time.

[16] The Claimant filed his application to the Appeal Division about three years after the date the General Division decision was delivered. The law says that an application **cannot proceed for any reason** if it was made more than a year after the General Division decision was communicated.⁴

Conclusion

[17] I have not given the Claimant an extension of time to apply to the Appeal Division. This means that the application will not proceed.

Stephen Bergen
Member, Appeal Division

⁴ This is found in section 57(2) of the *Department of Employment and Social Development Act*.