



Citation: *SM v Canada Employment Insurance Commission*, 2024 SST 11

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

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

**Applicant:** S. M.  
**Representative:** T. G.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** General Division decision dated August 21, 2023  
(GE-22-3826)

---

**Tribunal member:** Pierre Lafontaine

**Decision date:** January 4, 2024

**File number:** AD-23-917

## Decision

[1] An extension of time to apply to the Appeal Division is granted. Leave (permission) to appeal is refused. The appeal will not proceed.

## Overview

[2] The Applicant (Claimant) left her job and applied for EI 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 couldn't pay her benefits.

[3] The Commission determined that, instead of leaving when she did, the Claimant could have tried to work out the problems she had with a co-worker. She could have told her employer she was having problems with the co-worker to see if they had other solutions. After an unsuccessful reconsideration, the Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left her job. It found that the Claimant had other reasonable alternatives to leaving her job when she did. It concluded that the Claimant did not have just cause for leaving her employment.

[5] The Claimant seeks leave to appeal of the General Division's decision to the Appeal Division. Although requested, the Claimant did not provide her grounds of appeal within the period allowed.

[6] I must decide whether the Claimant has raised some reviewable error of the General Division upon which the appeal might succeed.

[7] I grant an extension of time to file the application for leave to appeal. I refuse leave to appeal because the Claimant's appeal has no reasonable chance of success.

## Preliminary matters

[8] To decide the present application, I must look at the evidence that was presented to the General Division.<sup>1</sup>

## Issues

[9] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) If found late: Should I extend the time for filing the application?
- c) Does the Claimant raise some reviewable error of the General Division upon which the appeal might succeed?

## Analysis

### The application was late

[10] The application was received on October 5, 2023. The General Division's decision was communicated by email to the Claimant on August 22, 2023. The application is late.

### I am extending the time for filing the application

[11] When deciding whether to grant an extension of time, I have to consider whether the Claimant has a reasonable explanation for why the application is late.<sup>2</sup>

[12] The Claimant submits that her friend who was working on her appeal had to stop because of work commitment. I note that the Claimant and her friend called the Tribunal to obtain the application for leave to appeal form.

---

<sup>1</sup> *Sibbald v Canada (Attorney General)*, 2022 FCA 157

<sup>2</sup> It says this in section 27(2) of the *Social Security Tribunal Rules of Procedure*.

[13] I find that the delay is only two weeks. The Claimant has given me a reasonable explanation for why her application to the Appeal Division is late.

### **I am not giving the Claimant permission to appeal**

[14] The General Division had to determine whether the Claimant had just cause to voluntarily leave her employment. This must be determined at the time she left.

[15] Whether one had just cause to voluntarily leave an employment depends on whether they had no reasonable alternative to leaving having regard to all the circumstances.

[16] The General Division found that the Claimant left her job because of a conflict with a co-worker. She did not speak to her supervisor or the plant manager before she quit about her issues with said co-worker. It found that a reasonable solution would have been for the Claimant to discuss her problem with the employer to explore possible solutions.

[17] It is well established that when a claimant is not satisfied with their working conditions, they must discuss with their employer prior to leaving to give the employer an opportunity to fix the situation. The employer said that if they had known about the problem, they could have tried to fix it.<sup>3</sup> A claimant also has an obligation to look for work prior to leaving their job. The Claimant did not satisfy any of these requirements to establish just cause for voluntarily leaving her employment.<sup>4</sup>

[18] Unfortunately, for the Claimant, an appeal to the Appeal Division of the Tribunal is not a new hearing where a party can re-present their evidence and hope for a new, favourable outcome.

[19] In her application for leave to appeal, the Claimant has not identified any reviewable errors such as jurisdiction or any failure by the General Division to observe a

---

<sup>3</sup> See GD3-40.

<sup>4</sup> See GD3-15: In her application for benefits, the Claimant indicated that she did not look for work prior to leaving her job because she had enough hours to qualify for benefits.

principle of natural justice. She has not identified errors in law nor identified any erroneous findings of fact, which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[20] For the above-mentioned reasons and after reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Claimant in support of her request for leave to appeal, I find that the appeal has no reasonable chance of success.

## **Conclusion**

[21] An extension of time to apply to the Appeal Division is granted. Leave (permission) to appeal is refused. The appeal will not proceed.

Pierre Lafontaine  
Member, Appeal Division