



Citation: *SB v Canada Employment Insurance Commission*, 2024 SST 273

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:

S. B.

Respondent:

Canada Employment Insurance Commission

Decision under appeal:

Canada Employment Insurance Commission
reconsideration decision 522818 dated
August 30, 2022 (issued by Service Canada)

Tribunal member:

Leanne Bourassa

Decision date:

February 9, 2024

File number:

GE-23-3515

REASONS AND DECISION

OVERVIEW

[1] The Appellant applied for employment insurance benefits effective May 22, 2022. Further to a request for reconsideration, on August 30, 2022 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 December 11, 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 at the latest on August 30, 2023.

[5] The Appellant indicated on her Notice of Appeal that she received her reconsideration decision on July 3, 2022. This seems to be a mistake and the Tribunal believes that the decision that the Appellant received on July 3, 2022, was the original decision in her file.¹ This decision disqualified her from receiving Employment Insurance Benefits because she had left her employment voluntarily and had not proven she had just cause for doing so.

[6] On July 3, 2022, the Appellant signed a Request for Reconsideration form. A stamp on this document shows the Respondent received this request on July 8, 2022.

¹ That original decision was issued on June 23, 2022. See GD3-29.

[7] The record also shows that the Commission spoke to the Appellant on August 24, 2022, and told her it had decided to maintain the decision to disqualify her from benefits for having voluntarily left her job without just cause.²

[8] This conversation was followed up with a letter dated August 30, 2022. The Tribunal notes that this letter was sent to the Appellant's address as it appeared on the Request for Reconsideration form. There is no evidence that this letter was returned as undeliverable.

[9] In her Notice of Appeal, the Appellant says that her appeal was late because after she received notification that her benefits were denied, she contacted her employer to have her Record of Employment modified.

[10] The record shows exchanges between the Appellant and her employer between August 16 and August 23, 2022. The outcome of these exchanges was that after consulting with the Respondent the employer would not be changing the ROE. They told the Appellant this via email on August 23, 2022.

[11] The Tribunal does recognize that the record contains another email to the Appellant from her employer dated September 25, 2023. The Appellant mentions that between the time she received notice of the reconsideration decision and the time she filed her appeal, she was working with her employer to have her ROE changed.

[12] However, the Tribunal finds that this message September 25, 2023 message simply repeats the information that was previously communicated to the Appellant on August 23, 2022. At that time, the Appellant had already been made aware of the outcome of the Respondent's reconsideration of its June 23, 2022 decision, and her right to appeal to the Tribunal within 30 days. Taking steps to have her employer alter her ROE did not prevent her from appealing the reconsideration decision to the Tribunal either in 2022 or 2023.

² See GD3-37.

[13] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal on December 11, 2023. This is the date of the electronic date stamp placed on the Notice of Appeal documents received by the Tribunal.

[14] Since the Appellant was made aware of the outcome of the reconsideration and her rights to appeal to the Tribunal on August 30, 2022, and only filed her Notice of Appeal on December 11, 2023, the Tribunal finds that the appeal was brought more than one year after the reconsideration decision was communicated to her.

[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] So, the appeal was not brought in time and the Tribunal cannot proceed to hear her appeal.

CONCLUSION

[17] 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