



Citation: *SS v Canada Employment Insurance Commission*, 2024 SST 280

**Social Security Tribunal of Canada
General Division – Employment Insurance Section**

Decision

Appellant: S. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision dated (issued by Service Canada)

Tribunal member: Ambrosia Varaschin

Decision date: January 15, 2024

File number: GE-23-3298

Decision

[1] The appeal won't go ahead. I am not giving the Appellant more time to appeal. In other words, I am not accepting the late appeal. This decision explains why.

Overview

[2] The Canada Employment Insurance Commission (Commission) made a decision in the Appellant's case. The Appellant asked the Commission to reconsider. The Commission reconsidered and sent the Appellant a letter about its reconsideration decision on August 2, 2023.

[3] The Appellant disagreed with the reconsideration decision, so she appealed it to the Social Security Tribunal (Tribunal) on November 21, 2023.

[4] There is a deadline for appealing to the Tribunal. An appellant who appeals late has to explain why they are late.¹ The Tribunal will give more time to appeal if the appellant has a reasonable explanation for why they are late.²

[5] The Appellant didn't explain why her appeal was late.

Issue

[6] I have to decide the following two issues:

- a) Is the Appellant's appeal late?
- b) If so, does she have a reasonable explanation for why her appeal is late?

¹ See section 27(1) of the *Social Security Tribunal Rules of Procedure* (Rules).

² Section 52(2) of the *Department of Employment and Social Development Act* (DESD Act) says that the Social Security Tribunal may allow up to a year. See also section 27(2) of the Rules.

Analysis

[7] If an appellant disagrees with the Commission's reconsideration decision, they can appeal to the Tribunal.³ They have to appeal within 30 days after the Commission told them about the decision.⁴

[8] If an appellant disagrees with the Commission's reconsideration decision, they can appeal to the Tribunal.⁵ They have to appeal within 30 days after the Commission told them about the decision.⁶

The Appellant's appeal is late

[9] The Appellant doesn't dispute that her appeal is late. She received her reconsideration decision on August 2, 2023. The Appellant submitted her Notice of Appeal to the Tribunal on November 21, 2023.

[10] I accept that the Commission told the Appellant about its reconsideration decision more than 30 days before she appealed to the Tribunal.

The Appellant doesn't have a reasonable explanation

[11] I find that the Appellant didn't give a reasonable explanation for why her appeal is late. The Tribunal requested additional information from the Appellant by January 12, 2024, to explain why her appeal was late and why she had an arguable case.

[12] The Commission clearly documented that she was informed she had 30 days to appeal to the Tribunal.⁷

[13] The Appellant's response was confusing and difficult to understand because of significant grammatical errors.⁸ It appears that she wrote about difficulties finding work,

³ See section 113 of the *Employment Insurance Act*.

⁴ See section 52(1)(a) of the DESD Act.

⁵ See section 113 of the *Employment Insurance Act*.

⁶ See section 52(1)(a) of the DESD Act.

⁷ See GD03-35.

⁸ See GD06. The Appellant's response included sentences like: "The file isn't tht confusing cause it has only one truth sentence it never happened before & when it happened I was lost & I wasn't getting the help or understanding for all the ways u have to follow & submit applications"

about her experiences with the Commission, and the Commission's own internal delays. There is nothing in her response about why *her appeal* was late.

[14] The Appellant says that she was late filing her initial application for benefits because she didn't know she could apply for benefits until a friend told her she might qualify. It is established case law that "not knowing" about EI benefits is not good cause for antedate.⁹

[15] The Federal Court has said that "government benefit programs have complex schemes," and "the onus is on the claimant to seek additional information." The same court also emphasized that government programs are often complex with strict requirements and, while "more information, clearer language and better explanations can almost always be proposed in hindsight...Fundamentally it is the responsibility of a claimant to carefully read and attempt to understand their entitlement options and, if still in doubt, to ask the necessary questions." It also asserts that where a claimant "merely lacks the knowledge necessary to accurately answer unambiguous questions, no legal remedies are available."¹⁰

[16] This means that not only did the Appellant not provide a reasonable explanation for why her appeal was over two and a half months late, her appeal also doesn't have a reasonable chance of success.

Conclusion

[17] The Appellant didn't give a reasonable explanation for why her appeal is late. Because of this, I can't give the Appellant more time to appeal.

⁹ See *Canada (Attorney General) v Kaler*, 2011 FCA 266; *Canada (Attorney General) v Innes*, 2010 FCA 341; *Canada (Attorney General) v Somwaru*, 2010 FCA 336; *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Mehdinasab*, 2009 FCA 282; *Canada (Attorney General) v Caron*, A-395-85; *Canada (Attorney General) v Carry*, 2005 FCA 367; and *Pirotte v Unemployment Insurance Commission*, A-108-76.

¹⁰ See *Canada (Attorney General) v Variola*, 2022 FC 1402 at para 26; and *Karval v Canada (Attorney General)*, 2021 FC 395 at para 14.

[18] This means the appeal won't go ahead.

Ambrosia Varaschin
Member, General Division – Employment Insurance Section