



Citation: *KC v Canada Employment Insurance Commission*, 2024 SST 405

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

## **Decision**

**Appellant:** K. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision 413800 dated  
January 19, 2021 (issued by Service Canada)

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**Tribunal member:** Leanne Bourassa  
**Hearing date:** N/A  
**Decision date:** March 5, 2024  
**File number:** GE-24-28

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant applied for employment insurance benefits. Further to a request for reconsideration, on January 19, 2021, the Respondent issued a decision under sections 1(1) and 1(2) *Reconsideration Request Regulations* (RR Regs). The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on December 1, 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 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 decision not to extend the time limit for requesting reconsideration of a decision was communicated both verbally and in writing to the Appellant on January 19, 2021.

[5] The Respondent provided notes of a phone call with the Appellant on January 19, 2021<sup>1</sup>. During this call, the Appellant was asked why he had waited over 4 years to request reconsideration of a June 2016 decision to refuse an Antedate request. He was also asked why he had not raised this issue with a representative of the Respondent, despite having had calls with representatives of the Respondent with respect to other matters over the years.

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<sup>1</sup> See Tribunal file at GD3-19.

[6] The Respondent's notes also show that at the conclusion of the January 19, 2021 call, the Appellant was advised that the late request would not be allowed. The Appellant was also informed of his right to appeal to the Tribunal.

[7] This conversation was followed up the same day with a letter to the Appellant. This letter clearly states in bold print that if the Appellant disagreed with the decision, he had 30 days following the receipt of the notice to appeal to the Tribunal.

[8] The Tribunal notes that the address this letter was sent to is the same address that the Appellant indicated as his on the request for reconsideration. This is also his address as he confirmed with the Tribunal. There is no evidence that this letter was returned to the Respondent as undelivered.

[9] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal on December 1, 2023. This is the date that the Notice of Appeal is stamped as "received" by the Tribunal.

[10] 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.

[11] 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. The Tribunal has no authority or discretion to act in any way other than what is set out in this article of the law.

## **CONCLUSION**

[12] 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