



Citation: *JJ v Canada Employment Insurance Commission*, 2024 SST 152

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant:	J. J.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated August 22, 2023 (GE-23-536)
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Tribunal member:	Jude Samson
Decision date:	February 16, 2024
File number:	AD-23-944

Decision

[1] I'm giving the Claimant, J. J., an extension of time to apply to the Appeal Division. However, I'm unable to give him leave (permission) to appeal. This means that his appeal will not proceed.

Overview

[2] The Canada Employment Insurance Commission (Commission) paid Employment Insurance (EI) regular benefits to the Claimant in 2019. It later reassessed his case and disqualified him from receiving those benefits. The Commission said that the Claimant had voluntarily quit his job without "just cause." As a result, the Commission sent the Claimant a notice of debt.

[3] The Claimant appealed the Commission's decision to the Tribunal's General Division, and, on August 22, 2023, it allowed his appeal. About three weeks after the General Division decision, the Claimant says that the Canada Revenue Agency (CRA) withheld monies that were owing to him, seemingly to repay the EI program.

[4] As a result, the Claimant applied to the Appeal Division for permission to appeal. However, his appeal was late. So, he now has two hurdles to overcome: he needs an extension of time and permission to appeal.

[5] I'm giving the Claimant an extension of time, but I can't give him permission to appeal.

Issues

[6] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) Should I extend the time for filing the application?
- c) Does the Claimant's appeal have a reasonable chance of success?

Analysis

The application was late

[7] The General Division decision was sent to the Claimant by regular mail on August 22, 2023. The law allows me to assume that he received it 10 days later, on September 1, 2023.¹

[8] The Claimant's application to the Appeal Division was due 30 days after he received the General Division decision: so by October 2, 2023, at the latest. Instead, the Tribunal received the Claimant's application on October 12, 2023, so it was about 10 days late.

I am extending the time for filing the application

[9] The Claimant has a reasonable explanation for why his application is late. That means I can extend the time for him to file his application.²

[10] The General Division decision was in the Claimant's favour. He says that he didn't intend to appeal it until, in late September 2023, he learned that the CRA owed him money but was refusing to pay it because of the Claimant's alleged debt to the EI program.

[11] In the circumstances, the Claimant has provided a reasonable application for filing his application late.

I am not giving the Claimant permission to appeal

[12] The Claimant's appeal has no reasonable chance of success. As a result, I cannot give him permission to appeal.

[13] The Claimant is understandably frustrated. The General Division ruled in his favour on August 22, 2023. However, the CRA said that it was withholding some of the

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

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

Claimant's money because of a debt he owes to the EI program. Yet, the Commission denies that the Claimant owes them any money.³

[14] I held two case conferences to try and get to the bottom of this confusion. The Commission attended the second case conference and confirmed that it implemented the General Division decision on August 29, 2023. It confirmed that the Claimant owed no money to the EI program after that date. Plus, it confirmed that there was no record of the Commission overpaying the Claimant in relation to any of his other EI claims.

[15] From its internal systems, the Commission could see that the CRA is processing a payment to the Claimant but could not say when he might receive that payment. Nor could the Commission explain why the amount is so much smaller than the amount the Claimant alleges the CRA wrongfully withheld from him.

[16] I sympathize with the Claimant's situation and understand his frustration.

[17] His appeal; however, has no reasonable chance of success. The Appeal Division assesses whether the General Division made an error or failed to provide the parties with a fair process. The Claimant isn't making those sorts of allegations here. In fact, the Claimant supports the General Division decision, which was in his favour. Rather, the Claimant's dispute appears to be with the CRA, which he says is refusing to pay his tax refunds without a proper explanation or justification.

Conclusion

[18] In the circumstances, I've given the Claimant an extension of time, but I can't give him permission to appeal. This means that the appeal will not proceed.

[19] I nevertheless hope that the Claimant will be able to find someone who can answer his questions and take the actions that are needed.

Jude Samson
Member, Appeal Division

³ See page AD4-6 and document AD5 in the appeal record.