



Citation: *MJ v Canada Employment Insurance Commission*, 2024 SST 448

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

### **Extension of Time Decision**

<b>Applicant:</b>	M. J.
<b>Respondent:</b>	Canada Employment Insurance Commission
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<b>Decision under appeal:</b>	General Division decision dated March 31, 2023 (GE-23-8)
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<b>Tribunal member:</b>	Elizabeth Usprich
<b>Decision date:</b>	April 30, 2024
<b>File number:</b>	AD-24-247

## Decision

[1] An extension of time to apply to the Appeal Division is refused. The application will not proceed.

## Overview

[2] The Applicant is M. J. He was receiving Employment Insurance (EI) benefits when he left Canada to take care of his mother. The Applicant left Canada on September 29, 2021. Almost one year later, he returned to Canada on September 26, 2022.

[3] Prior to leaving Canada, the Applicant had received about 15 weeks of EI benefits. The Applicant felt he had 35 weeks of EI benefits that he should still be paid once he returned in 2022.

[4] The Canada Employment Insurance Commission (Commission) decided that he wasn't entitled to EI benefits from September 29, 2021 onwards because he was out of Canada and also hadn't proven his availability. The Commission didn't make a decision about whether the benefit period could be extended. The Applicant appealed this decision to the Social Security Tribunal (Tribunal) General Division.

[5] On March 31, 2023, the General Division upheld the Commission's decision denying the Applicant EI benefits while out of Canada. This was communicated by the Tribunal on April 3, 2023. The letter accompanying the decision gave instructions that the Applicant had 30 days to appeal if he disagreed with the decision.

[6] The Applicant submitted his form on March 31, 2024.

[7] I am not extending the time for the Applicant to file his application.

## Issues

[8] 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?

## Analysis

### The application was late

[9] On March 31, 2023, the General Division decided the Applicant wasn't entitled to EI benefits from September 29, 2021 to October 26, 2022. The General Division found the Applicant was out of Canada and wasn't entitled to a 7-day exception because he hadn't proven his availability for that week. The General Division specifically wrote that it was not making **any** decision about any extension of the benefit period.<sup>1</sup>

[10] On April 3, 2023, an administrative letter, with a copy of the decision, was sent to the Applicant. This letter says:

#### **If you disagree with the Tribunal's decision, you can appeal**

Any party who disagrees with this decision can ask the Appeal Division of the Tribunal to review this General Division decision. This is called asking for "leave (permission) to appeal". To start this process, complete an Application to the Appeal Division form. You can find this form on the Tribunal's website at [www1.canada.ca/en/sst/forms.html](http://www1.canada.ca/en/sst/forms.html).

You have **30 days from the day you receive this letter** to submit your form.

[11] The Applicant submitted his form on March 31, 2024. This means the appeal was filed 333 days past when it was required.

### I am not extending the time for filing the application

[12] 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>

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<sup>1</sup> See the General Division decision at paragraphs 9 to 11.

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

[13] The Applicant wrote that the reason his appeal was late was because he didn't understand that it was denying him benefits for the first 7-days that he was outside of Canada. Yet, the appeal was only about whether or not the Applicant was entitled to that week of benefits.

[14] He says "last week" he spoke to an acquaintance who went through something similar but was allowed benefits.

[15] The Applicant says after speaking with the acquaintance he consulted a lawyer and believes he should be entitled to EI benefits for the first 7-days he was outside of Canada.

[16] The Applicant doesn't say that there was anything that prevented him from seeking information or consulting with a lawyer earlier. The Applicant doesn't say anything about why he didn't take any steps after he received the General Division decision.

[17] I am taking into consideration that the Applicant is an unrepresented party. But there has been no explanation put forward about why he didn't take any steps to understand his rights and obligations. There is no suggestion that he didn't receive the decision. There is also no suggestion that he didn't understand that the decision wasn't in his favour. So, it hasn't been explained why he didn't take any steps at all closer to the time of receiving the decision.

[18] So, I find the Applicant hasn't put forth a reasonable explanation about why he was late. Because of this I am not extending the time for him to file.

## **Conclusion**

[19] I have not given the Claimant an extension of time to apply to the Appeal Division. This means that the application will not proceed.

Elizabeth Usprich  
Member, Appeal Division