



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *JJ v Canada Employment Insurance Commission*, 2024 SST 426  
Tribunal File Number: GE-24-40

BETWEEN:

**J. J.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Charline Bourque

DATE OF DECISION: January 23, 2024

## REASONS AND DECISION

### OVERVIEW

[1] The Claimant applied for employment insurance benefits. Further to a request for reconsideration, on August 31, 2021, the Commission issued a decision under section 112 of the *Employment Insurance Act* (Act). The Claimant appealed that decision to the Social Security Tribunal (Tribunal) on December 15, 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 Commission's reconsideration decision was communicated to the Claimant.

[3] I must decide whether the appeal was brought in time.

### ANALYSIS

[4] I find that the Commission's reconsideration decision was communicated to the Claimant at the latest on October 31, 2020.

[5] The Commission issued the reconsideration decision on August 31, 2020<sup>1</sup>. The Claimant indicates that he has not received this decision.

[6] The Claimant indicates in its notice of appeal that he has received his reconsideration decision on August 21, 2021, and on October 25, 2022.

[7] On November 4, 2022, the Claimant sent a copy of the notice of debt dated October 31, 2020, to the Commission indicating that he was aware of the overpayment since then<sup>2</sup>.

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<sup>1</sup> Request for Reconsideration of Employment Insurance decision (GD3-79).

<sup>2</sup> Notice of debt dated October 31, 2020 (GD3-64).

[8] On October 28, 2022, the Claimant discussed the overpayment with the Commission. The Commission informed the Claimant that he needed to appeal the reconsideration decision to the Tribunal if he continues to disagree with the decision<sup>3</sup>.

[9] On October 31, 2022, the Commission sent a letter to the Claimant with the reconsideration decision attached. The Commission then informed the Claimant of his right to appeal the reconsideration decision to the Social Security Tribunal<sup>4</sup>. The Claimant was resent by email to the Claimant on November 30, 2022<sup>5</sup>.

[10] I find that the Claimant has been aware of the overpayment since October 31, 2020. The Claimant has received the notice of debt dated October 31, 2020<sup>6</sup>.

[11] I find that the Claimant brought the appeal to the General Division of the Tribunal on December 15, 2023. I find that more than one year passed between when the reconsideration decision was communicated to the Claimant and when the appeal was filed.

[12] I also took into consideration that even if the Claimant had not received the reconsideration decision from August 2021, he was fully aware of the decision since November 2022. He has discussed the overpayment with the Commission and was resent the reconsideration decision in November 2022 and waited more than one year before appealing the reconsideration decision.

[13] I 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 Claimant.

## CONCLUSION

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<sup>3</sup> Supplementary Record of Claim (GD3-67).

<sup>4</sup> Letter from the Commission to the Claimant (GD3-69).

<sup>5</sup> Supplementary Record of Claim (GD3-84).

<sup>6</sup> Request for Reconsideration of Employment Insurance decision (GD3-79).

[14] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

*Charline Bourque*

Member, General Division - Employment Insurance Section