



Citation: *AC v Canada Employment Insurance Commission*, 2024 SST 791

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

Decision

Appellant: A. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (478891) dated June 8, 2022 (issued by Service Canada)

Tribunal member: Leanne Bourassa

Decision date: June 10, 2024

File number: GE-24-1505

Decision

[1] The appeal won't go ahead. The appeal to the General Division of the Social Security Tribunal was not brought in time.

Overview

[2] The Appellant applied for employment insurance benefits. Further to a request for reconsideration, on June 8, 2022, the Respondent issued a decision under section 112 of the *Employment Insurance Act* (Act). The Appellant appealed that decision to the Social Security Tribunal (Tribunal) on April 18, 2024.

[3] 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 reconsideration decision was communicated to the Appellant.

[4] The Tribunal must decide whether the appeal was brought in time.

Analysis

[5] The Tribunal finds that the Respondent's reconsideration decision was communicated to the Appellant verbally on June 8, 2022. The Respondent provided notes of a phone call with the Appellant on that day, explaining that the decision that he was disqualified from receiving Employment Insurance benefits because he had lost his job because of his own misconduct would be maintained. The Appellant was also told that he had a right to appeal an unfavorable decision to the Tribunal within 30 days.

[6] Following this phone call, a letter was also sent to the Appellant dated June 8, 2022. This letter included an explanation of the Appellant's right to appeal to the Tribunal, and the 30 day limit to file an appeal.

[7] The Tribunal notes that the address to which this letter was sent is the same address that the Appellant indicated as his on his Notice of Appeal. There is no evidence that this letter was returned to the Respondent as undelivered.

[8] The Tribunal finds that the Appellant brought the appeal to the General Division of the Tribunal on April 18, 2024. This is the date that the Notice of Appeal is stamped as “received” by the Tribunal.

[9] The Tribunal wrote to the Appellant and asked him to confirm if he recalled the June 8, 2022 phone call with the Respondent, when did he receive the Respondent’s letter of June 8, 2022, his address on June 8, 2022, and why he delayed until April 18, 2024 to file his Appellant. This request was sent to the Appellant via email on May 24, 2024 and he was asked to provide his response before May 31, 2024.

[10] The Tribunal records show that the Appellant called the Tribunal on May 27, 2024. The notes of this phone call show that the Appellant only asked for a hearing date to be set after June 9, 2024 as he would be leaving the country until then. The Appellant did not respond to the Tribunal’s questions sent to him on May 24, 2024.

[11] 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.

[12] 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.

Conclusion

[13] 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