



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *MD v Canada Employment Insurance Commission*, 2024 SST 1177  
General Division File Number: GE-24-3181

BETWEEN:

**M. D.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY GENERAL DIVISION DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Katherine Parker

DATE OF DECISION: October 3, 2024

## REASONS AND DECISION

### OVERVIEW

[1] The Appellant applied for employment insurance benefits on May 15, 2022. He requested a reconsideration of the decision which was received by Service Canada on October 7, 2022.<sup>1</sup> The Commission issued a decision under section 112 of the *Employment Insurance Act* (Act).<sup>2</sup> The Appellant appealed that decision to the Social Security General Division (General Division).<sup>3</sup>

[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 General Division more than one year after the day on which the Respondent's reconsideration decision was communicated to the Appellant.

[3] The General Division must decide whether the appeal was brought in time.

### MATTERS I MUST ADDRESS

[4] The Appellant included decision letters about other issues in his GD2 appeal submission for this appeal. On GD2-5 to GD2-6, the Appellant provided a decision about an antedate decision that was issued on December 14, 2022. His request for an antedate was denied and he asked that the Commission reconsider its decision.

[5] The Commission reconsidered its decision to deny an antedate and it issued a Notice of Decision to the Appellant on February 16, 2024. It kept its decision to deny an antedate.

[6] However, the issue about an antedate is not an issue I can review because it falls outside this appeal. The issue in this decision is whether or not the Tribunal will accept

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<sup>1</sup> See GD-44. The request for reconsideration was dated September 25, 2022.

<sup>2</sup> See GD3-62.

<sup>3</sup> See GD2-1.

the Appellant`s appeal that was sent to us on March 1, 2024, appealing the Commission`s decision to deny him benefits because of misconduct.

## **ANALYSIS**

[7] The General Division finds that the Commission`s reconsideration decision was issued to the Appellant on December 12, 2022.<sup>4</sup> The Notice of Decision explains that the Appellant has 30 days following the receipt of the notice of decision to appeal a decision to the General Division.

[8] The Appellant again requested the Commission`s reconsideration of the December 12, 2022, decision on January 6, 2023. The Commission sent him an important notice dated January 31, 2023, telling him that a reconsideration decision was already made on the issue.<sup>5</sup> The letter informed the Appellant that it couldn`t cancel or modify the decision because the criteria of section 111 of the Act were not met. It reminded the Appellant that he could appeal to the General Division.

[9] The appeal to the General Division should have been sent 30 days after the Notice of Decision was issued or received. Clearly the Appellant received the December 12, 2022, decision before January 6, 2023, because he wrote back to the Commission about it. The Commission`s important notice was dated January 31, 2023.

[10] So, I will consider the timeframe between December 12, 2022, and January 31, 2023, as a timeframe to consider given there was a misunderstanding on the part of the Appellant about the process. Therefore, one year from the decisions that were issued ranges from December 13, 2023, to February 1, 2024.

[11] The General Division finds that the Appellant brought the appeal to the General Division of the General Division on March 1, 2024.<sup>6</sup> The General Division finds that

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<sup>4</sup> See GD3-62. The letter was dated December 12, 2022, and was sent by mail to the Appellant.

<sup>5</sup> See GD2-4.

<sup>6</sup> See GD2-1.

more than one year passed between when the reconsideration decision was issued to the Appellant and when the appeal was filed.

[12] The General Division must apply subsection 52(2) of the DESD Act which clearly says 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 Tribunal was not brought in time and therefore will not go ahead.

Katherine Parker  
Member, General Division - Employment Insurance Section