



Citation: *JW v Canada Employment Insurance Commission*, 2024 SST 1641

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: J. W.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (661989) dated May 31, 2024 (issued by Service Canada)

Tribunal member: Audrey Mitchell

Decision date: September 10, 2024

File number: GE-24-2856

Decision

[1] The appeal won't go ahead. I am not giving the Appellant more time to appeal. In other words, I am not accepting the late appeal. This decision explains why.

Overview

[2] The Canada Employment Insurance Commission (Commission) made a decision in the Appellant's case. The Appellant asked the Commission to reconsider. The Commission reconsidered and sent the Appellant a letter about its reconsideration decision on May 31, 2024.

[3] The Appellant disagreed with the reconsideration decision, so she appealed it to the Social Security Tribunal (Tribunal) on August 14, 2024.

[4] There is a deadline for appealing to the Tribunal. An appellant who appeals late has to explain why they are late.¹ The Tribunal will give more time to appeal if the appellant has a reasonable explanation for why they are late.²

[5] The Appellant says she didn't get the Commission's reconsideration decision until July 2024 because she had to get the Commission to re-send it.

Issue

[6] I have to decide the following two issues:

- a) Is the Appellant's appeal late?
- b) If so, does she have a reasonable explanation for why her appeal is late?

¹ See section 27(1) of the *Social Security Tribunal Rules of Procedure* (Rules).

² Section 52(2) of the *Department of Employment and Social Development Act* (DESD Act) says that the Social Security Tribunal may allow up to a year. See also section 27(2) of the Rules.

Analysis

[7] If an appellant disagrees with the Commission's reconsideration decision, they can appeal to the Tribunal.³ They have to appeal within 30 days after the Commission told them about the decision.⁴

[8] If the appellant appeals after the deadline, the Tribunal can give them more time to appeal.⁵ But the appellant needs to have a reasonable explanation for why they are late.⁶

The Appellant's appeal is late

[9] The Appellant doesn't dispute that her appeal is late.

[10] I accept that the Commission told the Appellant about its reconsideration decision more than 30 days before she appealed to the Tribunal.

The Appellant doesn't have a reasonable explanation

[11] I find that the Appellant didn't give a reasonable explanation for why her appeal is late.

[12] The Commission sent its reconsideration decision to the Appellant on May 31, 2024. But the Appellant didn't get it. She said she called the Commission to find out about the decision. Since she had not received it, the Appellant asked the Commission to re-send the decision. In her notice of appeal, the Appellant said she got the Commissions decision on July 10, 2024.

[13] Since the Appellant received the Commission's reconsideration decision on July 10, 2024, she had until August 9, 2024, to appeal the decision. She didn't do so until August 14, 2024.

³ See section 113 of the *Employment Insurance Act*.

⁴ See section 52(1)(a) of the DESD Act.

⁵ See section 52(2) of the DESD Act.

⁶ See section 27 of the Rules.

[14] The Tribunal sent the Appellant a letter on August 30, 2024. The letter notified the Appellant that since she said she received the Commission's reconsideration on July 10, 2024, she had until August 9, 2024, to appeal the Commission's reconsideration, but she did so on August 14, 2024. The letter asked that she explain the reason for the delay. The Appellant gave the same explanation, namely that she had to follow-up with the Commission to get another copy of the decision sent by mail to her home address.

[15] The Appellant has reasonably explained the first part of the delay in filing her appeal. But she hasn't explained the delay from August 9 to August 14. This was the request in the letter sent to her on August 30, 2024. Without that, I don't find that she has a reasonable explanation for why her appeal is late.

Conclusion

[16] The Appellant didn't give a reasonable explanation for why her appeal is late. Because of this, I can't give the Appellant more time to appeal.

[17] This means the appeal won't go ahead.

Audrey Mitchell

Member, General Division – Employment Insurance Section