



Citation: *MC v Canada Employment Insurance Commission*, 2025 SST 153

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

# **Leave to Appeal Decision**

**Applicant:** M. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated January 15, 2025  
(GE-25-17)

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**Tribunal member:** Glenn Betteridge

**Decision date:** February 20, 2025

**File number:** AD-25-110

## **Decision**

[1] Leave (permission) to appeal is refused. The appeal won't go forward.

## **Overview**

[2] M. C. is the Claimant.

[3] This Tribunal's General Division decided her appeal to the General Division was late. And because she hadn't given a reasonable explanation why, it could not extend the time for her to bring her appeal.

[4] The Claimant has now applied for permission to appeal the General Division decision.

[5] I can give her permission if she shows her appeal has a reasonable chance of success. Unfortunately, she hasn't.

## **Issue**

[6] I have to decide whether the Claimant's appeal has a reasonable chance of success.

## **I am not giving the Claimant permission to appeal**

[7] I read the Claimant's application to appeal.<sup>1</sup> I read the General Division decision. And I reviewed the documents in the General Division file.<sup>2</sup> Then I made my decision.

[8] For the reasons that follow, I am not giving the Claimant permission to appeal.

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<sup>1</sup> See AD1.

<sup>2</sup> See GD2, GD3, and GD4.

## The permission to appeal test

[9] I can give permission if the Claimant's appeal has a reasonable chance of success.<sup>3</sup>

This means the Claimant has to show there is an **arguable ground of appeal** upon which her appeal **might succeed**.<sup>4</sup>

[10] The law says I can consider the following grounds of appeal, which I call **errors**. The General Division<sup>5</sup>

- used an unfair process or was biased (a procedural fairness error)
- didn't use its decision-making authority properly (a jurisdictional error)
- made a legal error
- made an important factual error

## The Claimant hasn't shown an arguable case the General Division made an error—her appeal doesn't have a reasonable chance of success

[11] I will start by considering the Claimant's reasons for appeal.<sup>6</sup> Her reasons set out the key issues and central arguments I have to consider.<sup>7</sup>

### – Procedural fairness

[12] The Claimant checked the box that says the General Division didn't follow procedural fairness.<sup>8</sup> She sent a separate page of arguments to support that position.<sup>9</sup>

[13] But most of her argument is about the Commission's decision not to reconsider its decision, not the General Division decision she wants to appeal. This includes the

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<sup>3</sup> See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>4</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 115.

<sup>5</sup> The bullets are the grounds of appeal in section 58(1) of the DESD Act. I call them errors.

<sup>6</sup> See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 26.

<sup>7</sup> See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

<sup>8</sup> See AD1-4.

<sup>9</sup> See AD1-7.

two Tribunal decisions she refers to.<sup>10</sup> Neither decision is about the General Division's power to extend the time for a person to bring an appeal.

[14] The Claimant makes one argument about fairness.

I am very inexperienced with the protocols and processes to be followed with EI and I feel that The Tribunal member, based on my recollection of the events from the phone call with the agent and stress from the situation, should allow my appeal.<sup>11</sup>

[15] The Claimant's inexperience doesn't show the General Division procedure was unfair to her.

[16] The Tribunal's appeal forms and website have been designed for people who are representing themselves. As much as possible, the Tribunal uses plain language.

[17] The Claimant knew the case she had to meet. The General Division appeal form explains what counts as a late appeal and the legal test to get an extension of time (see "9 – Late appeal"). She knew her appeal was late. She admitted that.

[18] Part 9 of the form also gives instructions: "Explain why your appeal is late. Tell us why your explanation is reasonable. You may attach supporting documents."<sup>12</sup> The Claimant filled out Part 9. She explained why her appeal was late and why her explanation was reasonable.

[19] The General Division didn't have to hold a hearing. The General Division had the power to decide her request to extend time based on her appeal form, and by reviewing the relevant documents.<sup>13</sup> And that's what it did.

[20] This shows me the General Division gave her a full and fair opportunity to present her case.

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<sup>10</sup> See GE-27-3601 and AD-22-4786.

<sup>11</sup> See AD1-7.

<sup>12</sup> See GD2-6.

<sup>13</sup> See section 27(2) of the *Social Security Tribunal Rules of Procedure*.

[21] So she hasn't shown an arguable case the General Division made a procedural fairness error.

– **No arguable case the General Division made another type of error**

[22] Because the Claimant is representing herself, I looked beyond her arguments.<sup>14</sup> I considered whether the General Division made another type of error upon which her appeal might succeed.

[23] There's no arguable case the General Division ignored or misunderstood the relevant evidence. The General Division considered the Claimant's evidence and arguments (her explanation) why her appeal was late (paragraphs 9 to 12, 17, 19). It also considered the evidence in the Commission's reconsideration file (paragraph 13). Then it weighed the evidence and made its findings. The relevant evidence supports the General Division decision. So there isn't an arguable case the General Division made an important factual error.

[24] There isn't an arguable case the General Division made a legal error. It made the factual finding it had to make when it decided the Claimant's appeal was late (paragraphs 13 and 14). Then it set out and used the correct legal test to decide whether to extend the time for her to bring her appeal (paragraphs 6, 18, 20, and 21). The General Division's reasons are more than adequate. It grappled with the right questions and considered the parties' evidence and the Claimant's arguments.<sup>15</sup> And its reasons "add up."

[25] Finally, I understand the Claimant disagrees with General Division decision not to extend the time for her to appeal. She thinks that's not fair to her, given her circumstances. But I can't consider fairness as a stand-alone principle when I decide whether to give her permission to appeal. And simply disagreeing with the General

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<sup>14</sup> The Federal Court has said this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; and *Joseph v Canada (Attorney General)*, 2017 FC 391.

<sup>15</sup> See *Lalonde v Canada (Minister of Human Resources Development)*, 2002 FCA 211. See also *Sennikova v Canada (Attorney General)*, 2021 FC 982 at paragraphs 62 and 63.

Division's findings, or the outcome, doesn't show an arguable case the General Division made an error.<sup>16</sup>

## **Conclusion**

[26] The Claimant hasn't shown an arguable ground upon which her appeal might succeed. And I didn't find one.

[27] This means her appeal doesn't have a reasonable chance of success. So I can't give her permission to appeal the General Division decision.

Glenn Betteridge  
Member, Appeal Division

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<sup>16</sup> See *Griffin v Canada (Attorney General)*, 2016 FC 874 at paragraph 20.