



Citation: *MC v Canada Employment Insurance Commission*, 2025 SST 154

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: M. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision dated (issued by Service Canada)

Tribunal member: Teresa Day

Decision date: January 14, 2024

File number: GE-25-17

Decision

[1] The Appellant's appeal is late and I'm not giving her more time to appeal. This decision explains why.

[2] Since I'm not accepting the late appeal, it will not go ahead.

Overview

[3] The Canada Employment Insurance Commission (Commission) made a decision in the Appellant's case. It decided the Appellant couldn't receive employment insurance (EI) benefits because she voluntarily left her job without just cause **and** because she didn't prove she was available for work.

[4] The Appellant asked the Commission to reconsider. The Commission reconsidered and reversed its decision on the issue of voluntarily leaving without just cause. But it didn't change its decision on the issue of availability for work. It sent the Appellant a letter about its reconsideration decision on July 16, 2024.

[5] The Appellant disagreed with the reconsideration decision, so she appealed it to the Social Security Tribunal (Tribunal) on December 31, 2024.

[6] There is a deadline for appealing to the Tribunal. An appellant who appeals late has to explain why they are late¹. The Tribunal will only give more time to appeal if the appellant has a reasonable explanation for why they are late².

Issues

[7] 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

[8] If an appellant disagrees with the Commission's reconsideration decision, they can appeal to the Tribunal³. The law says they must appeal within **30 days** after the Commission told them about the decision⁴.

a) The Appellant's appeal is late

[9] The reconsideration decision the Appellant wants to appeal was issued on July 16, 2024. Her Notice of Appeal was filed with the Tribunal on December 31, 2024.

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

[11] At box 9 on the Notice of Appeal form, appellants are told that their appeal must be received within 30 days from the date they received their reconsideration decision. They are also told that if their appeal is received **after** the 30 days, they must explain why it is late. There is a space to explain why their appeal is late.

[12] The Appellant completed box 9 on her Notice of Appeal. In the space provided to explain why her appeal was late she wrote that she didn't realize her appeal had to be filed within 30 days, even though this information was stated directly on the reconsideration decision letter she received⁵.

[13] I accept that the Commission told the Appellant about its reconsideration decision more than 30 days before she appealed to the Tribunal⁶.

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

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

⁵ See GD2-6.

⁶ In coming to this conclusion, I note that the Appellant attached a copy of the July 16, 2024 reconsideration decision letter to her Notice of Appeal (at GD2-10). At Box 6 on the Notice of Appeal form, she was asked to provide the date she received it, and she wrote: "**2024-July-18**" (see GD2-4). I also give weight to the Supplementary Record of Claim documenting the fact that the reconsideration decision was verbally communicated to the Appellant on July 16, 2024 (see GD3-23), as well as the Supplementary Record of Claim documenting the Appellant's acknowledgment that she received the reconsideration decision letter in July 2024 (see GD3-27). Her Notice of Appeal was filed with the Tribunal on December 31, 2024.

[14] This means the Appellant's appeal was late⁷.

b) The Appellant doesn't have a reasonable explanation

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

[16] At box 9 on the Notice of Appeal form, appellants are asked to explain why their appeal is late **and** why their explanation is reasonable.

[17] The Appellant wrote⁸:

"I honestly didn't realize that I could appeal the decision of that if I wanted to, it had to be done within 30 days, even though it's stated directly on the letter I received. I skimmed over it and thought that it was just a reiteration of what I'd been told already by the agent I'd spoken with and that in their opinion, I hadn't been applying for enough jobs.

I feel this is reasonable because it's the truth. This is a very stressful situation that I have found myself to be in and I am only human.

Please consider my late appeal."

[18] Failing to review a decision letter carefully – and thereby missing critical information (such as the timeframe for appealing) – is **not** a reasonable explanation for being late to appeal that decision. If you disagree with a decision, you are expected to pursue the next step in a timely fashion. Especially when the decision letter **explicitly** sets out how to proceed if you disagree with the decision itself **and** identifies the deadline for doing so.

⁷ Based on the evidence set out in paragraph 10 and footnote 6 above, I find that the reconsideration decision was communicated to the Appellant on July 18, 2024. Her Notice of Appeal was received at the Tribunal on December 31, 2024, more than 30 days after the decision was communicated to her. So her appeal was late.

⁸ See GD2-6.

[19] In the Appellant's case, the July 16, 2024 reconsideration decision letter specifically identified what her next step was – and the deadline for completing it:

“You have 30 days following the receipt of this letter to appeal a decision to the Social Security Tribunal of Canada.

To learn about the appeal process, visit (*the Tribunal's website*) or call 1-877-227-8577.” (GD3-24 and GD2-10)

This letter was issued the same day as the Commission's representative **verbally advised** the Appellant of the outcome of her request for reconsideration **and** explained her right to appeal to the Tribunal⁹.

[20] Being “honest” and “human” about having just “skimmed over” the reconsideration decision letter doesn't make the Appellant's careless inattention a reasonable explanation for being late to appeal¹⁰. Unfortunately for the Appellant, her belated realization that she should have reviewed the decision more closely will not excuse her late appeal.

[21] I am sympathetic to the circumstances the Appellant now finds herself in. But the fact the Appellant finally took steps to appeal because she is unemployed and experiencing financial difficulties¹¹ – is also **not** a reasonable explanation for being late to appeal. Especially where there is no evidence she was prevented from submitting her appeal to the Tribunal on time¹².

⁹ See GD3-23 and GD3-27.

¹⁰ See GD2-6.

¹¹ As described in Box 7 and GD2-5.

¹² The Appellant told the Commission she was waiting for her training course to start and actively looking for work (see GD3-26 and GD3-27).

Conclusion

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

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

Teresa M. Day

Member, General Division – Employment Insurance Section