



Citation: *RZ v Canada Employment Insurance Commission*, 2025 SST 268

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: R. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated July 5, 2024
(GE-24-1968)

Tribunal member: Glenn Betteridge

Decision date: March 21, 2025

File number: AD-25-192

Decision

[1] I granted an extension of time to file the application to appeal. But I have refused leave (permission) to appeal. This means the appeal won't go forward.

Overview

[2] R. Z. is the Claimant. She wants to appeal a General Division decision. She was late filing her application to appeal.

[3] The General Division decided she could not get Employment Insurance (EI) benefits when she was in China. Because she didn't meet one of the exceptions to the law that says people can't get benefits when they aren't in Canada.¹

[4] I extended the time for her to file her application because she gave a reasonable explanation for being late.

[5] Unfortunately, I can't give her permission to appeal because her appeal doesn't have a reasonable chance of success.

Issues

[6] I have to decide three issues.

- Did the Claimant file her application to appeal late?
- If so, can I extend the time for her to file her application?
- Does the Claimant's appeal have a reasonable chance of success?

¹ See section 37 of the *Employment Insurance Act*, and the exceptions in section 55(1) of the *Employment Insurance Regulations*.

The Claimant's application was late, but I am extending the time for her to file it

[7] A person has to file their application to appeal no more than 30 days after the day on which the Tribunal communicated the General Division decision to them.² If they file their application after 30 days, it's late.

[8] The evidence shows the Tribunal communicated the General Division decision to the Claimant on July 8, 2024. The Claimant says she doesn't remember when she got the decision.³ The Tribunal's file shows it emailed the decision to her on July 5, 2024. According to the Tribunal's rules, I can assume she got it the next business day—July 8, 2025.⁴

[9] This means she had to file her application on or before **August 7, 2024**.

[10] The Tribunal received the Claimant's application on **March 13, 2025**. This is what the Tribunal date stamp says. And I have no reason to doubt this.

[11] So, I find the Claimant file her application late, but less than one year from when the Tribunal communicated the General Division decision to her. This means I can extend the time if she gives a reasonable explanation for why her application was late.⁵

[12] The Claimant has given a reasonable explanation. The Claimant's mental health challenges got in the way of filing her application on time. She explained she has problems with her memory and a mental disorder.⁶ This makes it really hard to reach people on time.⁷ She can't deal with the most simple task by herself due to anxiety and stress. And she takes ADHD and PTSD medication to improve her functioning.

² This is what section 57(1)(a) of the *Department of Employment and Social Development Act* (DESD Act) says.

³ See AD1-2.

⁴ See section 22(3) and 22(4) of the *Social Security Tribunal Rules of Procedure* (SST Rules).

⁵ See section 27(2) of the SST Rules.

⁶ See AD4-1.

⁷ See AD1-5.

[13] I accept the Claimant's explanation. It is supported by the evidence in the Commission's reconsideration file and her General Division appeal form. And I have no reason to doubt what she says.

[14] So I am extending the time for her to file her application to March 13, 2024, which is the day she filed it.

I am not giving the Claimant permission to appeal

[15] I read the Claimant's application to appeal.⁸ I read the General Division decision. I reviewed the documents in the General Division file.⁹ Then I made my decision.

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

The permission to appeal test screens out appeals that don't have a reasonable chance of success¹⁰

[17] I can give the Claimant permission to appeal if her appeal has a reasonable chance of success.¹¹ This means she has to show an **arguable ground of appeal** upon which her appeal **might succeed**.¹²

[18] The law lets me consider four grounds of appeal, which I call **errors**.¹³ The General Division

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

⁸ See AD1.

⁹ See GD2, GD3, and GD4.

¹⁰ See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

¹¹ See section 58(2) of the DESD Act.

¹² See *Osaj v Canada (Attorney General)*, 2016 FC 115.

¹³ See section 58(1) of the DESD Act.

[19] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.¹⁴ Because the Claimant is representing herself, I will also look beyond her arguments when I apply the permission to appeal test.¹⁵

[20] The Claimant checked the box that says the General Division made an important error of fact. She gave these reasons for her appeal: "I have showed my medical certificates from doctor, to take rest and being taken care of, I had to go back out of country to seek help from family, so I think it should have been covered due to sickness leave."¹⁶

There isn't an arguable case the General Division made an error

– No important factual error

[21] There isn't an arguable case the General Division made an important factual error.

[22] The General Division considered the Claimant's evidence about her health (paragraphs 33 and 34).

[23] I reviewed the evidence before the General Division and its decision. It didn't ignore or misunderstand any relevant evidence when it decided to go ahead with the hearing without the Claimant (paragraphs 13 to 17). And it didn't ignore or misunderstand any relevant evidence when it decided the Claimant wasn't entitled to EI benefits when she was outside of Canada.

– The General Division correctly identified the issue it had to decide

[24] There isn't an arguable case the General Division made a jurisdictional error. Jurisdiction means the General Division's power to decide an issue. The General

¹⁴ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

¹⁵ The Federal Court has said the Appeal Division should not apply the leave to appeal test mechanistically and should review the General Division record. See for example *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.

¹⁶ See AD1-3.

Division correctly identified the legal issue it had to decide, then decided only that issue (paragraphs 23 and 35).

– **No legal error**

[25] There isn't an arguable case the General Division made a legal error. It correctly identified the legal test it had to use to decide whether the Claimant was entitled to benefits (paragraphs 24, 25, and 28). Then it applied the test to the Claimant's circumstances. And it decided she wasn't entitled to get benefits from September 7 to December 15, 2023.

[26] The General Division's reasons are more than adequate. It succinctly and logically considered the evidence, the law, and the parties' arguments. And it clearly set out its findings.

– **No procedural fairness error**

[27] The Claimant didn't argue the General Division process was unfair to her. And nothing I read suggested to me the process was unfair, or the member wasn't impartial.

[28] The General Division went ahead with the hearing without the Claimant. But that doesn't mean the General Division process was unfair, for two reasons.

- First, the General Division had to provide the Claimant with a full and fair **opportunity** to present her case. It did that when it rescheduled the hearing, sent her a new notice of hearing, and had the Tribunal's staff contact the Claimant on the day of the rescheduled hearing. In other words, the General Division gave the Claimant a full and fair opportunity. But she didn't take advantage of that opportunity.
- Second, the Tribunal's rules say the General Division can go ahead with a hearing where it believes the party got notice of the hearing. The General Division followed that rule, without making a mistake.

[29] The General Division explained this in its decision as a preliminary matter (paragraphs 11 to 21).

Conclusion

[30] The Claimant hasn't shown an arguable case the General Division made an error. And I didn't find an arguable case.

[31] This tells me 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