



Citation: *AG v Canada Employment Insurance Commission*, 2025 SST 369

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

# **Leave to Appeal Decision**

**Applicant:** A. G.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated April 7, 2025  
(GE-25-951)

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**Tribunal member:** Glenn Betteridge

**Decision date:** April 11, 2025

**File number:** AD-25-256

## Decision

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

## Overview

[2] A. G. is the Claimant. She wants to appeal a General Division decision. I can give her permission if her appeal has a reasonable chance of success.

[3] When a person applies for parental benefits they have to choose standard or extended benefits. The law calls this choice an "election." The law says once the Commission pays a person parental benefits, they can't change their election.<sup>1</sup>

[4] The General Division dismissed the Claimant's appeal. The General Division decided it could not change her election because she asked after the Commission paid her benefits.

[5] Unfortunately, I can't give the Claimant permission to appeal. The law about changing a parental benefits election is clear. The legally relevant facts in her case were straightforward and uncontested. And there isn't an arguable case the General Division made an error when it applied the settled law to the relevant facts.

## Issue

[6] Does the Claimant's appeal have a reasonable chance of success?

## I am not giving the Claimant permission to appeal

[7] I read the Claimant's application to appeal.<sup>2</sup> I read the General Division decision. I reviewed the documents in the General Division file. And I listened to the hearing recording.<sup>3</sup> Then I made my decision.

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<sup>1</sup> See section 23(1.2) of the *Employment Insurance Act* (EI Act).

<sup>2</sup> See AD1.

<sup>3</sup> The hearing lasted approximately 40 minutes.

## **The permission to appeal test screens out appeals that don't have a reasonable chance of success<sup>4</sup>**

[8] I can give the Claimant permission to appeal if her appeal has a reasonable chance of success.<sup>5</sup> This means she has to show an **arguable ground of appeal** upon which her appeal **might succeed**.<sup>6</sup>

[9] I can consider four grounds of appeal, which I call **errors**—the General Division used an unfair process, or made a jurisdictional error, a legal error, or an important factual error.<sup>7</sup>

## **The Claimant's reasons don't show an arguable case the General Division made an error**

[10] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.<sup>8</sup> She checked the box that says the General Division made an error of jurisdiction. Then she argues she doesn't agree with the decision because

- she made an error and checked the wrong box
- she and her husband have worked their entire lives and never received any form of assistance
- she might have to return to work when her son is 6 months old because she can't afford to live on her parental benefits
- the General Division didn't empathize with a struggling mother, and she lost \$7200 she was 100% entitled to

[11] She also includes social observations and judgments, and political comments.

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<sup>4</sup> See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

<sup>5</sup> See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>6</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 115.

<sup>7</sup> See section 58(1) of the DESD Act.

<sup>8</sup> See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

[12] None of the Claimant's reasons are about the errors I can consider when I decide whether to give her permission to appeal. So she hasn't shown an arguable case the General Division made an error that might change the outcome in her appeal.

### **I didn't find an arguable case the General Division made an error**

[13] Because the Claimant is representing herself, I looked beyond her arguments to see if I could give her permission to appeal.<sup>9</sup> Unfortunately, I can't.

[14] The General Division correctly identified the issue it had to decide (paragraph 8). Then it decided only that issue.

[15] The General Division correctly set out the law it had to apply (paragraphs 9, 10, 20, and 21). Then it used that law to decide the Claimant's appeal (paragraphs 21 and 22). And its reasons are more than adequate.

[16] I reviewed the evidence the General Division had and compared it with its decision. I didn't find relevant evidence the General Division ignored or misunderstood. Relevant means important to the legal test the General Division had to apply.

[17] The Claimant's mistake, what caused her to make that mistake, and the mistake's effect on her finances weren't relevant facts. The General Division made this point (paragraph 23). The fact she didn't ask the Commission to change her election until after she received benefits was legally relevant.

[18] I understand the Claimant disagrees with the law. But the General Division could not change the law or ignore it. It made this point (paragraph 24). And I can't either.

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<sup>9</sup> 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.

## **Conclusion**

[19] The Claimant hasn't shown an arguable case the General Division made an error that might change the outcome in her appeal. And I didn't find an arguable case.

[20] 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