



Citation: *QI v Canada Employment Insurance Commission*, 2025 SST 394

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: Q. I.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (635873) dated January 17, 2024 (issued by Service Canada)

Tribunal member: Marc St-Jules

Decision date: April 4, 2025

File number: GE-25-634

Decision

[1] Q.I. is the Appellant. The appeal won't go ahead. The Appeal to the General Division of the Social Security Tribunal (Tribunal) was not brought in time.

Overview

[2] The Appellant was denied benefits by the Canada Employment Insurance Commission (Commission). The Commission decided the Appellant had voluntarily left his job without just cause. The Appellant requested a reconsideration of this decision.

[3] The Commission did reconsider its decision. However, the decision was maintained. This was verbally communicated to the Appellant on January 16, 2024.¹ A letter was then sent on January 17, 2024.² This decision was under section 112 of the *Employment Insurance Act* (EI Act). The appeal of that decision was received by the Tribunal on February 28, 2025.³

[4] Under subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), in no case may an appeal be brought to the General Division of the Tribunal more than one year after the day on which the Respondent's reconsideration decision was communicated to the Appellant.

[5] The Tribunal must decide whether the appeal was brought in time.

Matter I have to consider first

Two appeal files were kept separate

[6] There are two appeals before me. They were kept separate. This **current appeal** deals with a disqualification for voluntary leaving. The **other appeal** deals with an antedate request which the Commission denied.

¹ See GD03 pages 40 and 41.

² See GD03 pages 40 to 42.

³ See GD02.

[7] The *Social Security Tribunal Rules of Procedure* say that the Tribunal may join appeals if the appeals raise a common question and joining the appeals is not unfair to the parties.⁴

[8] I find that keeping them separate does not cause the Appellant any prejudice. There are a few reasons for this.

- The appeals have issues which are unrelated to each other.
- By having two decisions, each is more concise.

[9] I find that the biggest reason why I did not join them is that the issues are unrelated to each other. They deal with different sections of law. In addition, this **current appeal** was received by the Tribunal well over 30 days after it was communicated to the Appellant. The **other appeal** was filed within 30 days of the reconsideration decision.

[10] My findings that this appeal will not proceed is limited to this current appeal.

A case conference was held

[11] A case conference was held on March 12, 2025. It was not scheduled with this current appeal in mind. At the time this case conference was scheduled, the existence of this current appeal was not known to the Tribunal Member. I only found out about the existence of this appeal as the case conference was starting.

[12] The case conference discussed the other appeal and resources available to find a legal representative. The scheduling of a hearing was also discussed.

[13] During this case conference, as Tribunal Member I could not discuss this current appeal. It was not assigned to me as Tribunal Member so I did not have access to it. In addition, I was not aware of the issue under appeal and had not familiarized myself with this current appeal.

⁴ See section 35 of the *Social Security Tribunal Rules of Procedure*.

[14] As this current appeal was not discussed, the case conference recording was not added to this appeal. In addition, the case conference summary was not included with this appeal.

Analysis

[15] The Tribunal finds that the Commission's reconsideration decision was communicated more than one year prior to February 28, 2025. This Appeal won't go ahead. My analysis is in the following paragraphs.

[16] The Commission provided notes of a phone call with the Appellant on January 16, 2024.⁵ The discussion centred around why the Appellant resigned from his employment in September 2023. The Commission documented that it advised the Appellant that it would be maintaining its decision. That is to deny him benefits as he had voluntarily left without just cause.

[17] The Commission's notes also show that at the conclusion of the January 16, 2024, call, the Appellant was advised of his right to appeal to the Tribunal within 30 days.

[18] A letter was sent to the Appellant on the following day.⁶ The Tribunal notes that this letter tells the Appellant that he had 30 days following the receipt of the notice of his decision to appeal to the Tribunal. The phone number for the Tribunal is included on this letter.

[19] The Appellant did provide a reason for his appeal to be late.⁷ He wrote that by the time he received the letter, he was already working for his next employer.

⁵ See GD03 pages 40 and 41. I acknowledge that it may have been January 17, 2024. This is because it is documented as having been "obtained on" January 16, 2024, but it was saved on January 17, 2024. For the remainder of the decision, I will use January 16, 2024.

⁶ See GD03 pages 56 and 57.

⁷ See GD02 page 5.

[20] I sent a letter to the Appellant on March 17, 2025.⁸ I wanted more information from him regarding the delay from January 2024 to February 28, 2025.

[21] The Appellant did answer.⁹ This is what I found to be in his response:

- The Appellant agreed he spoke to a Commission employee but did not remember the exact date or month. He does not remember all of the details of what was discussed. The Appellant also says the agent tried to manipulate him.
- The Appellant says that receiving employment insurance was not his priority. His priority was to build a career. This is why he did not request an appeal right away as he was working.
- The Appellant also says that he took time to analyze the level of manipulation he experienced with employment insurance agents.
- The Appellant confirmed that his address since December 2021 has not changed. The address used for the letter dated January 17, 2024, was correct.
- He does not recall the exact date he received the letter. He “estimated” that he picked up the letter on February 28, 2024, or later. He also believes that he opened the letter as late as March 10, 2024.
- The Appellant added that he does not recall the exact date he received the letter but chose February 28, 2024, because it is the “earliest date he could think of.”
- The Appellant also believes the letter was not delivered before February 28, 2024, because mail to his address is sometimes routed to another building which looks very similar.¹⁰

⁸ See GD07.

⁹ See GD11.

¹⁰ To illustrate his argument, the Appellant says that he recently received a letter meant for unit 5-38 R. Drive but delivered to his address at 5-42 R. Drive instead.

– **Verbal communication**

[22] I find that the Appellant was communicated verbally of the reconsideration decision on January 16, 2024. The Commission documented this conversation and saved it in a timely manner. The Appellant does not recall the date or the month he spoke to the Commission. For this reason, I find that I have to accept that this conversation took place on January 16, 2024. I have nothing to refute this.

– **Written communication**

[23] I will only address the timing of the letter as the Appellant agrees he did receive it. I therefore need to determine the date he was communicated the contents of the letter.

[24] I find that he was communicated in writing by January 31, 2024. Canada Post says that it delivers letters within 4 business days anywhere within Canada.¹¹ I allowed for 10 business days to cover possible delays.¹²

[25] I am not persuaded by the Appellant's argument that he received it on February 28, 2024. There are a few reasons.

- The first is that he made this statement about one year after the fact.
- The second is regarding wording the Appellant used. He says that he put February 28, 2024, as it was the earliest date he could "think of." This is not convincing words to use.
- The Appellant wrote that he cannot recall which day or month he spoke with the Commission regarding the reconsideration decision. However, he is able to remember that he received a January 17, 2024, letter on February 28, 2024.

¹¹ I take official notice of Canada Post's delivery standards, which are available on its website.

¹² I find this is further supported by the fact that the Tribunal considers a document received 10 days after the day it was sent. See subsection 22(1) of the *Social Security Tribunal Rules of Procedure*. This is not binding on me. However, I find that if an established organization such as the Tribunal determined that 10 calendar days are sufficient for delivery, allowing for 10 business days is certainly acceptable.

Again, not very convincing that he was able to remember one date yet was unable to recall another.

[26] I acknowledge that the Appellant says that there are problems with the mail in his neighbourhood. I am not persuaded by this. The letter is dated January 17, 2024. I find it improbable for a letter to have been misdirected for such a long time. There is also the fact that the Appellant has access to the letter via his My Service Canada Account. I acknowledge this played a very small part in my decision. This is because I do not know when the Appellant opened his account.

[27] I find the Tribunal **received** the Appeal on February 28, 2025. The GD02 document is date stamped as received February 28, 2025. I have no reason to question this date. I acknowledge that the Appellant mailed his appeal earlier. I find that allowing for 10 days could also be allowed for mail to be sent to the Tribunal. So, even with allowing 10 business days, this would mean the Appellant mailed it out February 13, 2025.¹³

[28] I find that the Appellant was verbally communicated the decision on January 16, 2024. I find that the Appellant was communicated the written decision by January 31, 2024. I find that his appeal was received by the Tribunal on February 28, 2025. I acknowledge that he may have mailed it out earlier, but even allowing for 10 days, it is still over 1 year from the time he was communicated his decision.

[29] The Tribunal must apply subsection 52(2) of the DESD Act, which clearly states that in no case may an appeal be brought more than one year after the reconsideration was communicated to the Appellant.

¹³ I added family day in this calculation. The Appellant resides in a province which observes family day which may or may not impact delivery times. I also considered that this is well after the postal disruption which occurred in late 2024.

Conclusion

[30] The Appellant's appeal was received more than one year after the reconsideration decision was communicated to him. He is therefore out of time to appeal the decision to the Tribunal.

[31] This means this current appeal won't go ahead.

Marc St-Jules

Member, General Division – Employment Insurance Section