



Citation: *DC v Canada Employment Insurance Commission*, 2025 SST 398

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: D. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (589430) dated May 29, 2023 (issued by Service Canada)

Tribunal member: Catherine Shaw

Decision date: February 25, 2025

File number: GE-25-420

Decision

[1] The appeal won't go ahead.

[2] More than one year has passed between the Appellant receiving the reconsideration decision and filing this appeal. The law says an appeal can't be brought more than one year after you received the reconsideration decision.¹

Overview

[3] The Canada Employment Insurance Commission (Commission) made a decision in the Appellant's case. The Appellant asked the Commission to reconsider. The Commission reconsidered and sent the Appellant a letter about its reconsideration decision on May 29, 2023.

[4] The Appellant disagreed with the reconsideration decision, so he appealed it to the Social Security Tribunal (Tribunal) on February 10, 2025.

[5] There is a deadline for appealing to the Tribunal. Usually, you have to file your appeal within 30 days of receiving the reconsideration decision.² The General Division can give more time for some appeals if you have a reasonable explanation for why you filed your appeal late.³ But, in no case can an appeal be brought to the General Division more than **one year** after the reconsideration decision was communicated to the Appellant.

[6] The Appellant says he has been fighting with EI about this issue for years. The debt is unjust and was negligently applied to his claim. He believes he contacted the Tribunal in 2023, when he received the debt notice, and again in 2024 when his tax rebates were garnished, but isn't certain because the past few years have been difficult.

¹ This is set out at section 52(2) of the *Department of Employment and Social Development Act*.

² See section 52(1)(a) of the *Department of Employment and Social Development Act*.

³ Section 52(2) of the *Department of Employment and Social Development Act* says that the Social Security Tribunal may allow up to a year. See also section 27(2) of the Social Security Tribunal's Rules of Procedure.

Issue

[7] I have to decide whether the appeal can proceed. To do this, I have to look at whether the Appellant brought the appeal more than one year after the reconsideration decision was communicated to him.

Analysis

[8] I find that the Commission's reconsideration decision was communicated verbally to the Appellant on May 29, 2023.

[9] The Appellant said on his Notice of Appeal that he couldn't recall when he received the Commission's reconsideration decision.⁴ He disputed that he had brought the appeal late, though.⁵

[10] The Commission says that it told the Appellant about its decision in a phone call on May 29, 2023. It also sent him a written copy of the decision by mail.

[11] The Commission has to prove that it told the Appellant about its decision.⁶ The Commission has to prove this on a balance of probabilities. This means that it has to show that it is more likely than not that it told the Appellant about its decision when it says it did.

[12] I find that the Commission told the Appellant about its decision on May 29, 2023.

[13] Further, the Commission sent the Appellant the reconsideration decision by mail. The Appellant told the Commission that he "might be moving soon" at the time that he was told about the decision, but he hasn't disputed that he received the decision by mail. Canada Post usually delivers mail within 10 days in Canada. It is reasonable to believe that is what happened here.

⁴ See GD02-5.

⁵ See GD06.

⁶ See *Bartlett v Canada (Attorney General)*, 2012 FCA 230.

[14] However, even if he didn't receive the written decision by mail, he was informed about the decision over the phone on May 29, 2023. The Commission provided notes stating that the Appellant was told that his request for reconsideration wouldn't move forward and that he could appeal that decision to the Tribunal.⁷

[15] The Appellant said that he was pretty sure he had contacted the Tribunal back in 2023 when he received the decision. He's also pretty sure that he was in touch with the Tribunal in 2024 when the Canada Revenue Agency garnished his tax rebates to repay the debt related to his EI benefits. But, he acknowledges that his memory may not be accurate because he has had a difficult past few years. He knows he was in contact with the Canada Revenue Agency during this time, and that they gave him the Tribunal's number to call.⁸

[16] Even if the Appellant had been in contact with the Tribunal, there is no evidence that he brought his appeal before February 10, 2025. Since the Commission's decision was communicated to him on May 29, 2023, this means his appeal was brought over one year later.

[17] The law says that in no case can you bring an appeal to the General Division more than one year after the reconsideration decision was communicated to you. The Appellant filed his appeal more than one year after the reconsideration decision was communicated to him. Because of this, I can't give the Appellant more time to appeal.

Conclusion

[18] The appeal won't go ahead.

Catherine Shaw

Member, General Division – Employment Insurance Section

⁷ See GD03-20.

⁸ See GD07.