Citation: *IJ v Canada Employment Insurance Commission*, 2025 SST 474

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	I. J.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated March 10, 2025 (GE-25-290)

Tribunal member:	Solange Losier
Decision date:	May 6, 2025
File number:	AD-25-202

Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

Overview

[2] I. J. (Claimant) applied for Employment Insurance regular benefits (EI benefits) on September 29, 2024. She asked the Canada Employment Insurance Commission (Commission) to antedate her application to an earlier date, May 1, 2022.

[3] The Commission refused her request because she hadn't shown good cause for the delay in applying for EI benefits.[1]

[4] The General Division concluded the same and dismissed her appeal. It found the Claimant hadn't proven she had good cause throughout the entire period of delay. Because of that, her application could not be antedated to the earlier date. [2]

[5] The Claimant appealed to the Appeal Division and is now asking for permission to appeal. She argues that the General Division made several reviewable errors.[3]

[6] I am denying the Claimant's request for permission to appeal because it has no reasonable chance of success.[4]

Preliminary matters

The Claimant submitted additional documents

[7] The Claimant filed her application to the Appeal Division on March 15, 2025. A few weeks later, she submitted some additional documents on April 7, 2025, and again on April 21, 2025.[5] She wrote that many of the documents were medical notes and

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[1] See Commission's initial and reconsideration decision at pages GD3-39 to GD3-40; GD3-77 and GD3-81.
[2] See General Division decision at pages AD1-16 to AD1-22.
[3] See Application to the Appeal Division at pages AD1-1 to AD1-22.
[4] See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).
[5] See pages AD1B-1 to AD1B-19; AD1C-1 to AD1C-20 and AD1D-1 to AD1D-23.

relevant to her appeal because they "back up facts" that she had told the General Division.[6]

[8] I sent the Claimant a letter to confirm whether she intended to submit any additional documents and if not, her file would proceed to the next steps.[7] The Claimant replied to my letter confirming that she had no other documents to submit.[8]

I am not accepting the Claimant's new evidence

[9] New evidence is evidence that the General Division didn't have before it when it made its decision. The Appeal Division generally doesn't accept new evidence. This is because the Appeal Division isn't the fact finder or rehearing the case.[9] It's a review of the General Division's decision based on the same evidence.[10]

[10] There are some exceptions where new evidence is allowed.[11] For example, I can accept new evidence if it provides one of the following:

- general background information only
- if it highlights findings made without supporting evidence
- shows that the Tribunal acted unfairly.

[11] The Claimant submitted several documents to the Appeal Division, but most of them were duplicates of her arguments.[12] However, she did submit some medical documentation and emails that were not part of the General Division record.[13] I find that this is new evidence that was not before the General Division.

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[6] See page AD1D-1.
[7] See Tribunal letter at pages AD2-1 to AD2-3.
[8] See Claimant's reply at page AD3-1.
[9] See *Tracey v Canada (Attorney General),* 2015 FC 1300 at paragraphs 29 and 34; *Parchment v Canada (Attorney General),* 2017 FC 354, at paragraph 23.
[10] See *Gittens v Canada (Attorney General),* 2019 FCA 256, at paragraph 13.
[11] See *Sharma v Canada (Attorney General),* 2018 FCA 48 and *Sibbald v Canada (Attorney General),* 2022 FCA 157, at paragraphs 37–39.
[12] See pages AD1B-1 to AD1B-19 and AD1C-1 to AD1C-20.
[13] See pages AD1D-14 to AD1-22. These documents were not part of the General Division record.

[12] I'm not accepting the Claimant's new evidence because it isn't general background information, it doesn't highlight findings made without supporting evidence and doesn't show that the Tribunal acted unfairly.[14] This means I can't consider the Claimant's new evidence when making my decision.

[13] It's important to know that an appeal to the Appeal Division isn't a "redo" based on updated evidence of the hearings before the General Division.[15] Instead, they are reviews of the General Division's decision based on the same evidence.

[14] I've accepted a few of the documents she submitted because they were part of the General Division record, and not new evidence.[16]

Issues

[15] Is there an arguable case that the General Division didn't follow a fair process and was biased?

[16] Is there an arguable case that the General Division made errors of law?

[17] Is there an arguable case that the General Division based its decision on important errors of fact and ignored or overlooked important evidence?

Analysis

The test for getting permission to appeal

[18] An appeal can only proceed if the Appeal Division gives permission to appeal.[17] I must be satisfied that the appeal has a reasonable chance of success.[18] This means that there must be some "arguable ground" that the appeal might succeed.[19]

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[14] See pages AD1D-14 to AD1-22. I am not accepting these documents.
[15] See *Gittens v Canada (Attorney General),* 2019 FCA 256, at paragraph 13.
[16] See pages AD1D-3 to AD1D-14. I've accepted these documents because they were before the General Division at pages GD3-62 to GD3-70; GD3-72 and GD5-55.
[17] See section 56(1) of the *Department of Employment and Social Development Act* (DESD Act).
[18] See section 58(2) of the DESD Act. I must refuse leave to appeal if I find the "appeal has no reasonable chance of success."
[19] See *Osaj v Canada (Attorney General)*, 2016 FC 115, at paragraph 12.

[19] The possible grounds of appeal to the Appeal Division are that the General Division did one of the following:[20]

- proceeded in a way that was unfair
- acted beyond its powers or refused to exercise those powers
- made an error in law
- based its decision on an important error of fact.

[20] For the appeal to proceed to the next step, the Claimant's appeal has to have a reasonable chance of success.

The Claimant's arguments to the Appeal Division

[21] The Claimant submitted detailed arguments to support her position that the General Division made several reviewable errors. She alleges that the General Division made approximately forty (40) errors.[21]

[22] I've reviewed all of the Claimant's arguments and carefully considered them. I've also listened to the audio recording of the General Division hearing, reviewed the decision under appeal and looked at the entire file before making my decision.

[23] It isn't necessary for me to specifically address all 40+ errors.[22] Instead, I will characterize the Claimant's main arguments that look essential and those based on the grounds of appeal.[23] Any remaining arguments that I have not explicitly addressed means they were reviewed, but they weren't essential and didn't persuade me that she had an arguable case that there was a reviewable error.

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[20] See section 58(1) of the DESD Act.
[21] See pages AD1-1 to AD1-22; AD1B-1 to AD1B-19 and AD1C-1 to AD1C-20.
[22] The Federal Court of Appeal in *Faullem v Canada (Attorney General),* 2022 FCA 29, at paragraph 23 identifies that the principles of transparency and justification doesn't require a decision maker to state its position regarding each issue raised by a party and to address each and every argument that a party has advanced to support a position.
[23] See section 58(1) of the DESD Act.

I am not giving the Claimant permission to appeal because it has no reasonable chance of success

[24] "Procedural fairness" is about the fairness of the process. It includes procedural protections including the right to an unbiased decision maker, the right of a party to be heard and to know the case against them and to be given an opportunity to respond. If the General Division proceeded in a manner that was unfair, then I can intervene.[24]

[25] The Claimant argues that the General Division was biased, had a predetermined position, and made snap judgments. She says that the General Division's commentary about pursuing a constitutional challenge was biased.

[26] The Claimant says that the General Division used condescending and judgmental commentary in its decision. She says it ignored the emotional distress she was experiencing.

[27] The Claimant also argues that the General Division didn't disclose that she was a "seasoned lawyer" and "working for employers." She explains that she sent a letter to the Tribunal inquiring about the Tribunal Member before the hearing took place, but that went ignored.

There is no arguable case that the General Division didn't follow a fair process, was biased, had a predetermined position, or made snap judgments

[28] Decision makers are presumed to be impartial and unbiased. An allegation of bias is a serious allegation. An allegation for bias cannot rest on mere suspicion, pure conjecture, insinuations, or mere impressions.[25]

[29] The legal test for establishing bias is whether an informed person, viewing the matter realistically and practically and having thought the matter through, would

[24] See section 58(1)(a) of the DESD Act.
[25] See *Arthur v Canada (Attorney General),* 2001 FCA 223.

conclude that it was more likely than not that the General Division member, whether consciously or unconsciously, would not decide the case in a fair manner.[26]

[30] I reviewed the file and listened to the audio recording of the General Division hearing to verify what happened.

[31] The file record shows that the Claimant was arguing discrimination under section 15(1) of the *Canadian Charter of Rights and Freedoms*. She argued that the employer didn't reasonably accommodate her based on the Manitoba *Human Rights Code*. In her written arguments, she asked the General Division to review and reconsider her application in light of her circumstances, the context of discrimination and constructive dismissal, her charter rights under s.15(1) and the principle of equity.[27]

[32] At the beginning of the hearing, the General Division identified that the Claimant had raised a number of issues in her appeal, including a constitutional argument.

[33] The audio recording shows that the Claimant and the General Division had a lengthy discussion about what a constitutional challenge at the Tribunal entails.[28] The following is a summary of the relevant parts.

[34] The Claimant explained to the General Division that she has an anxiety condition, and the definition of good cause is discriminatory. She said "they" were discriminating against her because she has anxiety.

[35] The General Division followed by explaining the process involved for constitutional matters at the Tribunal.[29] It invited questions from the Claimant about the process. It reiterated that it was the Claimant's decision to make (i.e., whether to proceed with a regular hearing or proceed with a constitutional challenge).

[36] The Claimant told the General Division *twice* that she didn't want to proceed with a constitutional challenge, first at the beginning of their discussion and again, after the

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[26] See *Committee for Justice and Liberty v National Energy Board*, 1976 CanLII 2 (SCC).
[27] See page GD3-22.
[28] Listen to the audio recording of the General Division hearing at 9:40 to 19:31.
[29] See section 1 of the *Social Security Tribunal Regulations*.

constitutional process was explained to her in detail. She explained that she had recently done some research and found some case law to support her position on the issue of antedating her application.

[37] Following the Claimant's request to proceed, the matter went ahead on the scheduled date and the General Division stated that it wouldn't make any findings about the constitutional argument.[30]

[38] The Claimant now argues that the comments the General Division made about constitutional cases amounts to a bias.

[39] The audio recording shows that the General Division did make some commentary about the constitutional process, including that it was complicated, technical, difficult and in some cases, it can take years.

[40] In my view, the General Division wasn't trying to sway the Claimant one way or the other with its commentary. It was being transparent about the constitutional process and only made those comments *after* the Claimant had already *twice* indicated that she didn't want to proceed with a constitutional challenge.

[41] There is no indication from the audio recording that the Claimant had any hesitation about whether to proceed with a regular hearing or a constitutional one. If she had shown some hesitation, the General Division could have adjourned the matter to allow her time to decide. However, it seems reasonable that it proceeded with the hearing because the Claimant said twice that she wanted to proceed. She also didn't raise any concerns about the General Division's comments at the hearing.

[42] I reviewed the General Division's decision, and I don't see any commentary or language that looks condescending and judgmental towards the Claimant. It's written in an appropriate and respectful tone.

[43] The General Division didn't ignore the emotional distress the Claimant experienced at the hearing. The audio recording shows that at one point during the

[30] See paragraphs 8–10 of the General Division decision.

hearing, the Claimant was a bit emotional, and the General Division provided her with some reassuring words while offering her a short break.[31]

[44] As well, a few days before the hearing, the file shows that the Tribunal received an email from the Claimant inquiring about the number of people on the panel and their "career background."[32] The email wasn't added to the official file record, so the General Division likely didn't see her email inquiry. The Claimant didn't raise this as an issue at the General Division hearing either.

[45] Respectfully, I don't see how the Tribunal Member's work experience is relevant or how it impacted its analysis of the case. Some Tribunal Members may have formal legal training, but that doesn't mean they are biased or not impartial. I see no indication that would lead one to conclude that the General Division would not decide the case fairly.

[46] The Claimant's arguments did not persuade me that she had an arguable case under this ground. An informed person, viewing the matter reasonably and practically and having thought the matter through, would not conclude that it was more likely than not that the General Division was biased.

[47] There is no arguable case that the General Division didn't follow a fair process, was biased, had a predetermined position, or made snap judgments.[33]

There is no arguable case that the General Division made an error of law

The legal test for antedate cases

[48] An error of law happens when the General Division does not apply the correct law or uses the correct law but misunderstands what it means or how to apply it.[34]

[31] Listen to audio recording of General Division hearing at 58:30 to 58:50.
[32] The Tribunal received an email from the Claimant on March 1, 2025.
[33] See section 58(1)(a) of the DESD Act.
[34] See section 58(1)(b) of the DESD Act.

[49] Section 10(4) of the *Employment Insurance Act* (EI Act) says that a person has to show they had "good cause" for filing the application for benefits late for the entire period of delay.

[50] The Federal Court of Appeal (FCA) says that to establish good cause, a person has to show that they did what a reasonable person in their situation would have done in similar circumstances to satisfy themselves of their rights and obligations under the law.[35]

[51] The FCA also says that unless there are exceptional circumstances, a reasonable person is expected to take reasonably prompt steps to understand their entitlement to benefits and their obligations under the EI Act.[36]

The Claimant relied on several Canadian Umpire Benefit (CUB) decisions

[52] The Claimant argues that the General Division made an error of law because it established a "higher standard of conduct" for a reasonable person in her circumstances. She also argues that the General Division also erred in applying the following CUB decisions: CUB 52024; CUB 56558; CUB 35066; and CUB 52237. She submits that CUB 70956 specifically applies to her situation.[37]

[53] The Claimant submits that the General Division formulated general, rigid rules that left no room for flexibility or for considering the program's social objective. Also, she argues that she was not given "the benefit of the doubt."

[54] The General Division didn't rely on any CUB decisions in its written decision, instead it relied on decisions from the FCA involving antedate cases.

[55] I looked at the CUB decisions referenced by the Claimant and they appear to be distinguishable anyway. In an effort to be transparent, let me explain why.

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[35] See *Canada (Attorney General) v Kaler,* 2011 FCA 266, at paragraph 4; *Canada (Attorney General) v Burke,* 2012 FCA 139, at paragraph 5 and *Canada (Attorney General) v Mendoza*, 2021 FCA 36 at paragraphs 13 and 14.
[36] See *Canada (Attorney General) v Kaler*, 2011 FCA 266, at paragraphs 4 and 11.
[37] See page AD1D-23.

[56] CUB 52024 and CUB 56558 both involved short delays of less than two months. The delay in this case was much longer, over two years before the Claimant applied for EI benefits.

[57] CUB 52237 involved another person, a recent immigrant to Canada, who didn't apply for benefits on the basis of a mistaken belief, confirmed by misinformation that he was not eligible for benefits. He didn't think he could get EI benefits because he was sponsoring his wife's entry to Canada and had signed an agreement that he would not be applying for "social assistance" in Canada for 10 years. The Umpire decided that he had good cause for the delay and antedated his claim.

[58] Similarly, the Claimant in this case also had a mistaken belief and assumed she wasn't eligible for EI benefits, but the distinguishing fact is that she was told by her employer to apply for benefits in 2022 yet delayed her application for another two years.

[59] The General Division found that the Claimant was told by her employer to apply for benefits in 2022, but that she opted to pursue litigation against her employer instead, so she didn't inquire about her eligibility to EI benefits. It also stated that she found out about the EI "rules" in February 2024 and still didn't pursue EI benefits until September 2024.[38]

[60] A reliance on rumours, unverified information or on unfounded and blind assumptions does not constitute good cause, according to the FCA.[39]

[61] In CUB 35066, the Board of Referees erred by antedating the claim the date the Claimant was considered "available for work," versus the date the interruption of earnings occurred (the date of her injury). The Umpire found that "good cause for the delay is not a rigidly closed concept, but rather more flexible and circumstantial…being so each case turning on its individual circumstances."

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[38] See paragraph 19 of the General Division decision.
[39] See *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Rouleau*, AD-4-95.

[62] This is an older CUB decision from 1995. More recent decisions from the FCA say that the obligation and duty to promptly file a claim is seen as very demanding and strict. This is why good cause for the delay exception is cautiously applied.[40] Antedate is an advantage that should be applied exceptionally.[41]

[63] In CUB 70956, the person initiated a wrongful dismissal action against her employer, and had been told by a Commission agent that she didn't qualify for EI benefits. The Umpire decided that she had good cause to antedate her application.[42]

[64] This case is distinguishable. The Claimant in this case chose not to inquire based on her *own* mistaken belief and the assumption that she would not qualify for EI benefits. A Commission agent didn't tell her that she didn't qualify for EI benefits like the CUB decision above.

[65] It isn't arguable that the General Division made an error of law in this case.

[66] The General Division has to interpret "good cause" according to direction from the FCA. Its written decision shows that's exactly what it did. While it didn't refer to any of the CUB decisions the Claimant relied on, it did rely on relevant FCA cases.

[67] The General Division wasn't establishing a higher standard of conduct, it's the case law that establishes that antedate is applied cautiously and exceptionally.

[68] The General Division correctly stated the law in its decision.[43] It referred to and applied the relevant jurisprudence from the FCA for antedate cases. It correctly stated that "there are no rules to give her the benefit of the doubt because she was mistaken about EI rules or because she felt she had to pursue other legal rights and not EI."[44]

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[40] See *Canada (Attorney General)* v *Brace*, 2008 FCA 118.
[41] See *Canada (Attorney General)* v *McBride*, 2009 FCA 1; *Canada (Attorney General)* v *Scott*, 2008 FCA 145; *Canada (Attorney General)* v *Brace*, 2008 FCA 118; *Canada (Attorney General)* v *Smith*, A-549-92.
[42] See page AD1D-23.
[43] See paragraphs 12–16 of the General Division decision.
[44] See paragraph 20 of the General Division decision.

[69] There is no arguable case that the General Division made an error of law.[45] It correctly stated the law and followed binding decisions from the FCA. The General Division doesn't have to follow CUB decisions, and they appear to be distinguishable anyway.

There is no arguable case that the General Division based its decision on any important errors of fact and ignored or overlooked any important evidence

[70] An error of fact happens when the General Division has "based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it."[46]

[71] This involves considering some of the following questions:[47]

- Does the evidence squarely contradict one of the General Division's key findings?
- Is there no evidence that could rationally support one of the General Division's key findings?
- Did the General Division overlook critical evidence that contradicts one of its key findings?

[72] I'll start by reviewing the General Division's key findings on the antedate issue, followed by the Claimant's arguments under this ground of appeal.

The General Division's key findings on the antedate issue

[73] The General Division had to decide whether the Claimant had proven she had good cause to antedate her application for benefits to the earlier date.

[74] The General Division first determined that the period of delay ran from May 9, 2022, to September 29, 2024.[48] The parties do not dispute the period of delay.

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[45] See section 58(1)(b) of the DESD Act.
[46] See section 58(1)(c) of the DESD Act.
[47] This is a summary of the Federal Court of Appeal's decision in *Walls v Canada (Attorney General),* 2022 FCA 47, at paragraph 41.
[48] See paragraph 15 of the General Division decision.

[75] The General Division identified and considered the Claimant's reasons for the delay in applying for EI benefits. It noted the following in its decision:[49]

- that she left her job in May 2022
- that her employer tried to persuade her to apply for EI benefits in 2022
- she was focused on her job and pursued workers' compensation benefits, as well as a grievance at the labour board
- she wasn't aware of the EI rules and assumed she wasn't eligible
- she had been dealing with insomnia and anxiety since 2022
- she began working part-time in May 2022, around 25 hours a week until April 2024
- she was focused on other legal actions at that time and felt overwhelmed
- she only learned that she might qualify for EI benefits in February 2024.

[76] Having considered *all* of the Claimant's circumstances, the General Division concluded that a reasonable and prudent person in the circumstances would have taken steps to find out about her rights and obligations in relation to EI benefits.

[77] The General Division decided that it wasn't reasonable for the Claimant to rely on her assumption that she wasn't eligible for EI benefits, especially since her employer suggested that she apply for EI benefits. It found that she made a choice to focus on work and other legal actions, instead of learning about EI rules and pursuing benefits. [50]

[78] The General Division also found that the Claimant didn't have exceptional circumstances. It explained that her particular circumstances didn't prevent her from taking steps to apply for EI benefits, or from learning about rights and obligations.[51]

[79] It considered that she was able to work 25 hours a week (from May 2022 to April 2024), and able to pursue other rights related to her separation from employment

[49] See paragraphs 6–7, 17, 19–26 of the General Division decision.
[50] See paragraph 26 of the General Division decision.
[51] See paragraph 24 of the General Division decision.

during the delay period. Instead, it found that the Claimant decided to not pursue EI benefits at that time, despite knowing about it when she stopped working.[52]

The Claimant argues that the General Division made errors of fact and ignored or overlooked important evidence

[80] Most of the Claimant's arguments to the Appeal Division fall under this ground of appeal. The crux of her argument is that she had good cause for the delay and that her circumstances were exceptional.

[81] More generally, the Claimant restates many of the reasons she argued before the General Division to explain the delay in applying for benefits. She disagrees with the General Division's finding that she did not have good cause for the delay. She outlined the timeline of events and hopes that this appeal will be different and fair.

[82] The Claimant argues that the General Division ignored the fact that she was focused on getting a severance package from her employer after being constructively dismissed from her job due to discrimination. She says that the General Division didn't grapple with her social context, including that she had mental health issues, systemic racism, loss of income and pension benefits, and was navigating self-representation in an adversarial court system.

[83] The Claimant says that the General Division kept "implying that she researched EI benefits in 2022", but that wasn't true. She points to 55:45 of the audio recording of the General Division hearing to support her position.

[84] The Claimant argues that there was medical evidence before the General Division proving that she has medical conditions and that its findings paragraphs at 23–24 of its decision is incorrect.[53] She refers to the medical evidence located in the "GD3 and GD5" documents of the file.

[52] See paragraphs 23–24 of the General Division decision.
[53] See pages AD1-7 to AD1-8.

[85] It isn't arguable that the General Division based its decision on any important errors of fact, ignored or overlooked any important evidence.[54]

[86] The General Division didn't ignore the fact that the Claimant had filed a labour grievance and application to the labour board.[55] It was clearly aware that she had other ongoing legal matters. It considered her specific circumstances and outlined all of them in its decision.[56] Despite her ongoing legal matters, it found that a reasonable and prudent person in similar circumstances would have taken steps to inquire and apply for EI benefits at the *same* time.

[87] Many of the Claimant's arguments are about what the employer did to her and why she was justified in delaying her application for benefits. However, the only issue under appeal was whether she had good cause to antedate her application to the earlier date.

[88] To be clear, the General Division has no jurisdiction to make any findings about the Claimant's constructive dismissal or other labour-related issues. The file shows that she has already initiated other legal actions to deal with those matters.[57] While the Claimant argues the employer didn't reasonably accommodate her, that is a labour matter and is for another forum, not this Tribunal.

[89] The audio recording shows the Claimant telling the General Division that she hadn't researched EI benefits at that time [in 2022]. She explained that she was "focused on the job" and the union wasn't assisting her and "EI didn't factor in her mind" and that she was trying to find a way back to her job.[58]

[90] The General Division didn't misunderstand or misconstrue the Claimant's testimony on this issue, nor did it imply that she had researched EI benefits in 2022. Its

[54] See section 58(1)(c) of the DESD Act.
[55] See paragraph 19 of the General Division decision.
[56] See paragraphs 6–7, 17, 19–26 of the General Division decision.
[57] See page GD5-60.
[58] Listen to the audio recording from 55:45 to 56:53.

decision was based on the fact that she *knew* about the EI benefit program in 2022 and that her employer had told her to apply for EI benefits at that time.[59]

[91] The audio recording also shows that the Claimant testified that she was focused on her job and trying to find a way to get back to her job.[60] And that is consistent with the General Division's decision.[61]

[92] The General Division found that the Claimant hadn't submitted any medical evidence to show she was unable to file an EI claim because of her health.[62]

[93] I looked at the file record, including all of the GD3 and GD5 documents. There is a medical document that confirms the Claimant has anxiety and identified an incident that happened at work.[63] There is a medical note that says she was off from work until May 6, 2022.[64] There is another medical note that confirms she was dealing with stress due to her work environment and anxiety.[65] There is also evidence of virtual sessions booked with an organization.[66]

[94] The General Division's finding is consistent with the evidence before it.[67] There was no medical evidence before the General Division that said the Claimant was unable to file an EI claim because of her health or medical conditions. So, it isn't arguable that it ignored or overlooked the medical evidence in the file.

[95] The Claimant restates that she cares about her rights and responsibilities, but she is human and prone to error. I acknowledge that she may have acted in good faith, but the FCA says that good faith does not constitute good cause.[68] As well, ignorance of the law is not good cause.

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[59] See paragraph 22 of the General Division decision.
[60] Listen to the audio recording from 55:45 to 56:53.
[61] See paragraph 25 of the General Division decision.
[62] See paragraph 23 of the General Division decision.
[63] See pages GD3-71; GD5-55 and GD3-57.
[64] See page GD3-73.
[65] See page GD3-74.
[66] See pages GD3-62 and GD5-53; GD5-54; and GD3-56.
[67] See paragraph 23 of the General Division decision.
[68] See *Canada (Attorney General) v Kaler*, 2011 FCA 266.

[96] The totality of the Claimant's arguments to the Appeal Division amount to a disagreement with the General Division's decision. She is rearguing her case because she is not satisfied with the outcome that her application could not be antedated to the earlier date.

[97] The General Division is the trier of fact, and it was free to conclude, based on the evidence before it, that she didn't have good cause to antedate her application. It gave weight to the fact that the Claimant was able to do other things, such as pursue other legal actions and work part-time during the delay period. It concluded that a reasonable and prudent person in similar circumstances would have taken steps to inquire and apply for EI benefits at the *same* time.

[98] The Appeal Division has a limited role, so I cannot intervene in order to reweigh the evidence about the application of settled legal principles to the facts of the case.[69] An appeal to the Appeal Division isn't a new hearing in order to get a different or more favourable outcome.

[99] There is no arguable case that the General Division based its decision on any important errors of fact and ignored or overlooked any important evidence.[70] Its key findings are consistent with the evidence. I didn't find any relevant evidence that the General Division might have ignored or misinterpreted. [71]

Conclusion

[100] Permission to appeal is refused. This means that the Claimant's appeal will not proceed. It has no reasonable chance of success.

Solange Losier
Member, Appeal Division

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[69] See *Garvey* v *Canada (Attorney General)*, 2018 FCA 118.
[70] See section 58(1)(c) of the DESD Act.
[71] The Federal Court has said that I should do this in decisions like *Griffin v Canada (Attorney General),* 2016 FC 874 and *Karadeolian v Canada (Attorney General),* 2016 FC 615.