



Citation: *SM v Canada Employment Insurance Commission*, 2025 SST 415

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 17, 2025
(GE-25-486)

Tribunal member: Elizabeth Usprich

Decision date: April 24, 2025

File number: AD-25-220

Decision

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

Overview

[2] S. M. is the Applicant. He made a claim for Employment Insurance (EI) sickness benefits on July 8, 2024. The Applicant had to take some time off for surgery in March 2024. He waited to apply for EI benefits because he was waiting to find out if his employer would pay short-term disability (STD) benefits.

[3] The Canada Employment Insurance Commission (Commission) denied the Applicant's claim for EI benefits because he waited too long to apply for EI benefits. The Commission refused to antedate (backdate) the claim because it said the Applicant didn't have good cause for the period of delay.

[4] The Applicant appealed to the Social Security Tribunal (Tribunal) General Division. The General Division decided the Applicant had good cause for part of his delay from March 3, 2024, to April 6, 2024. It was on April 6, 2024, that the Applicant learned his employer would not pay STD benefits.

[5] But the General Division decided the Applicant didn't have good cause from April 6, 2024, to July 8, 2024. The General Division said once the Applicant learned he wasn't eligible for STD benefits through his employer that he should have looked into EI at that time. This meant the General Division dismissed the Applicant's appeal.

[6] The Applicant has asked for permission to appeal to the Appeal Division. He wants his claim to be considered on compassionate grounds.

[7] I am denying the Applicant's request for permission to appeal because there is no reasonable chance of success.

Preliminary matters

– The Applicant didn’t specify an error the General Division made

[8] I asked the Applicant to send in information about why he was appealing the General Division decision. The Applicant didn’t check off any reason and didn’t give any explanation about his reason for appealing.

[9] On March 27, 2025, I wrote the Applicant and explained, “leave to appeal can only be granted if you raise an arguable case about how the General Division made an error (mistake). This means that you need to explain **HOW** the General Division made an error.”¹ The Applicant sent a response. I considered it in this decision.

Issue

[10] Is there an arguable case that the General Division made a reviewable error?

I am not giving the Applicant permission to appeal

[11] An appeal can only go ahead if the Appeal Division gives an applicant permission to appeal.² I have to be satisfied that the appeal has a reasonable chance of success.³ There has to be an arguable ground upon which the appeal might succeed.⁴

[12] There are only certain grounds of appeal that the Appeal Division can consider.⁵ Briefly, the Applicant has to show the General Division did one of the following:

- It acted unfairly in some way.

¹ This was in a letter to the Applicant March 27, 2025. Under section 4 of the Notice of Appeal form to the Appeal Division, it explains that permission to appeal must first be granted. It says there must be an arguable case the General Division made an error and lists the errors that can be considered. See AD1A-4 for the Application to the Appeal Division form the Applicant filled out.

² See section 56(1) of the Department of *Employment and Social Development Act* (DESD Act).

³ See section 58(2) of the DESD Act.

⁴ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13; *O’Rourke v Canada (Attorney General)*, 2018 FC 498; *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.

⁵ See section 58(1) of the DESD Act. The grounds listed are also known as errors.

- It decided an issue it shouldn't have, or didn't decide an issue it should have. This is also called an error of jurisdiction.
- It made an error of law.
- It based its decision on an important error of fact.

[13] So, for the Applicant's appeal to go ahead, I have to find there is a reasonable chance of success on any of those grounds. The Applicant is asking that the Appeal Division reconsider his application for EI benefits on compassionate grounds.

The General Division didn't make a reviewable error

[14] Because the Applicant is self-represented, I reviewed the file, listened to the hearing recording, and looked at the decision the Applicant is appealing. I haven't found any reviewable error that the General Division may have made.⁶

[15] I understand that the Applicant wants the Tribunal to reconsider his application for EI benefits on compassionate grounds.⁷ Unfortunately, the law doesn't allow this. The Tribunal has a specific mandate. It must decide whether a claimant is entitled to benefits under the EI Act.

[16] I don't have any authority to do what the Applicant is asking. The Appeal Division's role is to look at what the General Division did and decide if there has been a reviewable error. The Tribunal doesn't have the authority to rewrite the law or expand specific prescribed regulations.

[17] The General Division correctly stated the legal test.⁸ The Applicant had to show good cause for the length of his delay in applying for EI benefits. To show good cause, the Applicant had to show he acted as a reasonable and prudent person in similar circumstances would have acted. The Applicant had to show that he took reasonably

⁶ The Federal Court has said I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

⁷ See AD1A-4 and AD1B-1 of the Applicant's submissions to the Appeal Division.

⁸ See the General Division decision at paragraphs 11 to 14. Listen to the General Division hearing recording at 00:08:10.

prompt steps to learn about his rights and obligations under the law. If he didn't, he had to show there were exceptional circumstances that prevented him from doing so.

[18] The Applicant hasn't argued that he was given an unfair process. There is also no argument that the General Division made a jurisdictional error. The Applicant hasn't said that the General Division got the law or any facts wrong. After looking at the file, I don't find there is an arguable case on any of these grounds that the General Division made a reviewable error.

[19] I understand the Applicant doesn't agree with the decision. I understand he's hoping for a different outcome. But I can just review the evidence and come to a different conclusion. Instead, the role of the Appeal Division is to only step in if there is a **reviewable** error that the General Division made. Unfortunately, there is no arguable case that the General Division made a reviewable error. So, the appeal can't go ahead.

Conclusion

[20] Permission to appeal is refused. This means that the appeal will not proceed.

Elizabeth Usprich
Member, Appeal Division