



Citation: *MM v Canada Employment Insurance Commission*, 2025 SST 441

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 25, 2025
(GE-25-705)

Tribunal member: Solange Losier

Decision date: April 29, 2025

File number: AD-25-261

Decision

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

Overview

[2] M. M. is the Claimant. He applied for Employment Insurance regular benefits (benefits) shortly after he stopped working.

[3] On June 30, 2022, the Canada Employment Insurance Commission (Commission) decided that the Claimant lost his job due to his own misconduct.¹

[4] A few years later, the Claimant appealed the Commission's decision to the General Division of the Tribunal on March 5, 2025.²

[5] The General Division decided that the Claimant's appeal could not proceed. It found that more than one year had passed from when the Commission's decision was communicated to him.³

[6] The Claimant is now asking for permission to appeal. He argues that the General Division made an error of jurisdiction.⁴

[7] I am denying his request for permission to appeal because it has no reasonable chance of success.⁵

Issue

[8] Is there an arguable case that the General Division made an error of jurisdiction?

¹ See Commission's initial and reconsideration decision at pages GD3-34 and GD3-39.

² See Appeal to the General Division at pages GD2-1 to GD2-11.

³ See General Division decision at pages AD1A-1 to AD1A-4.

⁴ See Application to the Appeal Division at pages AD1-1 to AD1-10.

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

Analysis

[9] An appeal can only proceed if the Appeal Division gives permission to appeal.⁶ I must be satisfied that the appeal has a reasonable chance of success. This means that there must be some arguable ground that the appeal might succeed.⁷

[10] I can only consider certain types of errors. I have to focus on whether the General Division could have made one or more of the relevant errors (also known as “grounds of appeal”).

[11] The grounds of appeal to the Appeal Division are that the General Division:⁸

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

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

I am not giving the Claimant permission to appeal

The Claimant argues that the General Division made an error of jurisdiction

[13] The Claimant argues that the General Division made an error of jurisdiction because its decision was made before a formal determination was made about his wrongful dismissal.

[14] He explains that he has since been compensated for his wrongful dismissal and argues that he is entitled to get benefits for the period in question.⁹ Finally, he argues

⁶ See section 56(1) of the DESD Act.

⁷ See *Osaj v Canada (Attorney General)*, 2016 FC 115, at paragraph 12.

⁸ See section 58(1) of the DESD Act.

⁹ See page AD1-4.

that “time” should not be the deciding factor on whether what happened to him was right or wrong.

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

[15] An error of jurisdiction means that the General Division didn’t decide an issue it had to decide or decided an issue it did not have the authority to decide.¹⁰

[16] On June 30, 2022, the Commission decided that the Claimant was disqualified from getting benefits because he was suspended from his job due to misconduct.¹¹ This is called the “reconsideration decision.”

[17] A few years later, on March 5, 2022, the Claimant appealed the Commission’s decision to the General Division.

[18] Before the General Division could decide the underlying issue (disqualification to benefits due to misconduct), it had to first decide whether his appeal was brought in time.

[19] The law says that an appeal of a decision must be brought to the General Division in the prescribed form and manner and within, 30 days after the day on which it is communicated to a person.¹²

[20] The General Division can allow further time, but in no case may an appeal be brought more than one year after the day on which the reconsideration decision is communicated to that person.¹³

[21] The General Division determined that the Commission had mailed the reconsideration decision to the Claimant and that it had been communicated to him by

¹⁰ See section 58(1)(a) of the DESD Act.

¹¹ See pages GD3-34 and GD3-39.

¹² See section 52(1)(a) of the DESD Act.

¹³ See section 52(2) of the DESD Act and section 27 of the *Social Security Tribunal Rules of Procedure*.

July 11, 2022. It noted that the Claimant didn't dispute that he got the decision by mail "with proper timing."¹⁴

[22] The General Division found that he had filed his appeal to the General Division on March 5, 2024. It concluded that it was filed more than one year after the reconsideration decision was communicated to him, so his appeal could not proceed.¹⁵

[23] The General Division had no authority or discretion to accept the Claimant's late appeal (even if he had a good reason) because it was filed too late. It was required to follow the law and that is exactly what it did.

[24] There is no arguable case that the General Division made an error of jurisdiction. It only decided the issues it had the power to decide. It didn't decide any issues it had no power to decide.¹⁶ The Claimant filed his appeal too late, so it could not proceed according to the law.

– **There are no other reasons for giving the Claimant permission to appeal**

[25] Aside from the Claimant's arguments, I also reviewed the file and examined the General Division decision. I didn't find any evidence that the General Division might have ignored or misinterpreted.¹⁷

Conclusion

[26] 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

¹⁴ See paragraph 10 of the General Division decision.

¹⁵ See paragraph 14 of the General Division decision.

¹⁶ See section 58(1)(a) of the DESD Act.

¹⁷ The Federal Court has suggested such a review in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.