



Citation: *NN v Canada Employment Insurance Commission*, 2025 SST 440

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: N. N.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 19, 2025
(GE-25-503)

Tribunal member: Solange Losier

Decision date: April 29, 2025

File number: AD-25-303

Decision

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

Overview

[2] N. N. is the Claimant. She applied for Employment Insurance standard parental benefits on May 22, 2021 and received 22 weeks.

[3] The Canada Employment Insurance Commission (Commission) discovered that the Claimant's spouse had already received 35 weeks of standard parental benefits. It decided that the Claimant was only entitled to get 5 weeks of benefits because the maximum amount was 40 weeks when benefits are shared. This resulted in an overpayment of benefits.¹

[4] The General Division concluded the same and dismissed the Claimant's appeal. It found that she was overpaid benefits, so she was liable to repay the overpayment.²

[5] The Claimant is now asking for permission to appeal. She argues that the General Division made an error of jurisdiction and didn't follow a fair process.³

[6] I am denying permission to appeal because the appeal has no reasonable chance of success.⁴

Issues

[7] Is there an arguable case that the General Division made an error of jurisdiction or didn't follow a fair process?

¹ See Commission's initial and reconsideration decision at pages GD3-25 and GD3-37.

² See General Division decision at pages AD1-1 to AD1-19.

³ See Application to the Appeal Division at pages AD1-1 to AD1-19.

⁴ See section 58(2) of the *Department of Employment and Social Development* (DESD Act).

Analysis

[8] An appeal can only proceed if the Appeal Division gives permission to appeal.⁵ I must be satisfied that the appeal has a reasonable chance of success.⁶ This means that there must be some arguable ground that the appeal might succeed.⁷

[9] 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 (this is called the “grounds of appeal”).⁸

[10] The possible grounds of appeal to the Appeal Division are that the General Division did one of the following:⁹

- 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.

[11] The Claimant in this case is arguing that the General Division made an error of jurisdiction and didn’t follow a fair process, so that’s what I will focus on.¹⁰

I am not giving the Claimant permission to appeal

There is no arguable case that the General Division made an error of jurisdiction or didn’t follow a fair process

[12] 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.¹¹

⁵ See section 56(1) of the DESD Act.

⁶ See section 58(2) 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 section 58(1) of the DESD Act.

¹⁰ See page AD1-3.

¹¹ See section 58(1)(a) of the DESD Act.

[13] 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.

[14] The Claimant argues that the General Division made an error of jurisdiction and didn't follow a fair process. She explains that the overpayment is causing significant financial hardship and asked the "officer" to show some mercy. She gave the General Division all of her loan documents and asked for the overpayment to be waived.¹²

[15] The General Division found that the Claimant's spouse got 35 weeks of standard parental benefits. It also found the Claimant got 22 weeks of standard parental benefits. Together, it concluded that they got a combined total of 57 weeks of standard parental benefits.¹³

[16] The General Division determined that the Claimant was only entitled to get 5 weeks of standard parental benefits because the law says when benefits are shared, the maximum number is 40 weeks.¹⁴ Because of that, it found she was overpaid 17 weeks of standard parental benefits resulting in an overpayment.¹⁵

[17] The General Division also considered whether the Commission had acted in a judicial manner. It found the Commission had acted judicially when it exercised its discretion to reconsider the claim and provided reasons for making that determination.¹⁶

[18] Neither the General Division nor the Appeal Division of the Tribunal has the authority to write off the Claimant's overpayment, even in compassionate circumstances. The law says that only the Commission can write off overpayments.¹⁷ They aren't reviewable by the Tribunal.¹⁸

¹² See pages AD1-8 to AD1-9.

¹³ See paragraph 27 of the General Division decision.

¹⁴ See paragraph 26 of the General Division decision and sections 23(4) and 23(4.1) of the EI Act.

¹⁵ See paragraph 24 of the General Division decision.

¹⁶ See paragraphs 13–25 of the General Division decision.

¹⁷ See section 56 of the *Employment Insurance Regulations*.

¹⁸ See section 112.1 of the EI Act.

[19] The General Division correctly stated its jurisdiction in its decision.¹⁹ It explained that the Claimant had other options, including asking the Commission to write off the overpayment due to financial hardship or ask the Canada Revenue Agency (CRA) for a repayment plan.²⁰

[20] The Claimant's arguments amount to a disagreement with the outcome, but that isn't a reviewable error. I understand that she wants the overpayment written off due to financial hardship, but she will need to contact the Commission (Service Canada) directly to make that request.

[21] There is no arguable case that the General Division made an error of jurisdiction.²¹ It only decided the issues it had the power to decide (her entitlement to parental benefits). And it didn't decide any issues it had no power to decide (the overpayment write off).

[22] There is also no arguable case that the General Division didn't follow a fair process either.²² The hearing with held by videoconference, she attended and presented her case. There is no indication that the General Division didn't follow a fair process.

Conclusion

[23] Aside from the Claimant's arguments, I reviewed the file and the General Division decision. I am satisfied that the General Division didn't misinterpret or fail to consider any relevant evidence.²³

[24] 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

¹⁹ See paragraphs 35–36 of the General Division decision.

²⁰ See paragraphs 37–28 of the General Division decision.

²¹ See section 58(1)(a) of the DESD Act.

²² See section 58(1)(a) of the DESD Act.

²³ The Federal Court recommends doing such a review in *Karadeolian v Canada (Attorney General)*, 2016 FC 165, at paragraph 10.