



Citation: *CB v Canada Employment Insurance Commission*, 2025 SST 454

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: C. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 11, 2025
(GE-25-469)

Tribunal member: Glenn Betteridge

Decision date: April 30, 2025

File number: AD-25-285

Decision

[1] I am extending the time for C. B. to file his application to appeal.

[2] But I am not giving him permission to appeal the General Division decision. This means his appeal won't go forward.

Overview

[3] C. B. has asked for permission to appeal a General Division decision. I can give him permission if his appeal has a reasonable chance of success.

[4] The General Division decided his employer dismissed him because he didn't show up to work or contact his employer for two days. The General Division found this counted as misconduct under the law. This meant he could not get Employment Insurance benefits.¹

[5] The Claimant filed his application to appeal after the 30-day deadline. But I extended the deadline because he gave a reasonable explanation for being late. He argues the General Division didn't consider his situation. He says his employer treated him unfairly and unjustly.

[6] Unfortunately, he hasn't shown a reasonable chance he could win his appeal. So his appeal won't go forward.

Issues

[7] I have to decide four issues.

- Did the Claimant file his application late?
- If so, should I extend the time?

¹ See sections 30(1) and (2) of the *Employment Insurance Act*.

- Did the General Division ignore or misunderstand relevant evidence to reach its decision? In other words, did it make an important factual error?
- Did the General Division make another type of error?

Analysis

The Claimant filed his application late

[8] The Claimant says he got the General Division decision on March 12, 2025.

[9] The law says he had 30 days to file his application for appeal—by April 11, 2025.²

[10] The Claimant filed his application on April 17, 2025. This is what the Tribunal date stamp says, and I have no reason to doubt it.

[11] So, the Claimant filed his application late.

I am extending the time for filing the application

[12] The Claimant has given a reasonable explanation for why he filed late.³ He says he was trying to get legal help and waiting for a call-back, having financial troubles, and things got the best of him.⁴ Waiting for legal advice was a reasonable thing to do in the circumstances and explains the short delay.

[13] So I am extending the time for him to file his application to April 17, 2025—the day he filed it.⁵

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

³ See section 27(2) of the *Social Security Tribunal Rules of Procedure*.

⁴ See AD1B-8.

⁵ Section 52(2) of the DESD Act gives me the power to do this.

I am not giving the Claimant permission to appeal

[14] I read the Claimant's application to appeal.⁶ I read the General Division decision. I reviewed the documents in the General Division file.⁷ And I listened to the hearing recording.⁸ Then I made my decision.

[15] For the reasons that follow, I am not giving the Claimant permission to appeal.

– **The permission to appeal test screens out appeals that don't have a reasonable chance of success⁹**

[16] I can give the Claimant permission to appeal if his appeal has a reasonable chance of success.¹⁰ This means he has to show an **arguable ground of appeal** upon which his appeal **might succeed**.¹¹

[17] I can consider four grounds of appeal, which I call **errors**.¹² The General Division used an unfair process, or made a jurisdictional error, a legal error, or important factual error.

[18] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.¹³ Because the Claimant is representing himself, I will also look beyond his arguments when I apply the permission to appeal test.¹⁴

– **There isn't an arguable case the General Division ignored or misunderstood relevant evidence**

[19] The Claimant checked the box that says the General Division made an important error of fact. Then he writes:

⁶ See AD1 and AD1B.

⁷ See GD2, GD3, and GD4.

⁸ The hearing lasted approximately 58 minutes.

⁹ See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

¹⁰ See section 58(2) of the DESD Act.

¹¹ See *Osaj v Canada (Attorney General)*, 2016 FC 115.

¹² See section 58(1) of the DESD Act.

¹³ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

¹⁴ The Federal Court has said the Appeal Division should not apply the leave to appeal test mechanistically and should review the General Division record. See for example *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; and *Joseph v Canada (Attorney General)*, 2017 FC 391.

I believe the General Division weren't considerate to my situation. This is unfair of my previous employer to have treated me this way. Have been employed with that company for over 15 years of my life. I need justice for what has happened.

[20] The General Division make an important factual error when it reaches its decision by ignoring or misunderstanding **relevant** evidence.¹⁵ (Relevant means evidence the legal test calls for.) This error means the General Division decision isn't supported by the relevant evidence.

[21] The General Division used the legal test for misconduct to decide the Claimant's appeal.¹⁶ The law about misconduct says the General Division had to focus on the Claimant's conduct and what he knew or should have known. The employer's conduct and questions about whether the dismissal was unfair or unjust are irrelevant to misconduct. The General Division had to apply that law. It could not decide the appeal using general principles of fairness and justice.

[22] This means the Claimant's evidence about how his employer treated him and how long he had worked for the employer weren't relevant. The General Division didn't have to consider this evidence. And it could not base its decision on these facts.

[23] I looked at the documents in the General Division file. I listened to the hearing. Then I compared that evidence in those sources with the General Division decision.

[24] I didn't find any evidence the General Division ignored or misunderstood. It considered and understood the relevant evidence when it decided

- the Claimant didn't voluntarily leave (paragraphs 15 to 17)

¹⁵ Section 58(1)(c) of the DESD Act says it is a ground of appeal where the General Division based its decision on an erroneous finding of fact it made in a perverse or capricious manner or without regard for the material before it. I have described this ground of appeal using plain language, based on the words in the Act and the cases that have interpreted the Act.

¹⁶ See a helpful summary of the law about misconduct in *Lance v Canada (Attorney General)*, 2025 FCA 41 at paragraphs 7 and 8.

- his employer dismissed him because he didn't report to work or notify his employer for two days of work (paragraphs 22 to 24)
- that counted as misconduct under the law because he was reckless—he should have known he could lose his job if he didn't notify his employer (paragraphs 29 to 32)

[25] The General Division weighed the evidence and made the findings of fact it had to make to reach its decision. And the relevant evidence supports its decision.

[26] In summary, the Claimant hasn't shown an arguable case the General Division made an important factual error. And I looked but didn't find an arguable case of this error.

– **There's no other reason I can give the Claimant permission to appeal**

[27] The General Division correctly identified the issues in the appeal (paragraphs 7 to 9). Then it decided only the issues it had to decide.

[28] The General Division set out the correct law about the link between voluntary leaving and misconduct, and its power to look into both types of disqualification (paragraphs 11 and 12). Then it applied that law.

[29] The General Division set out the correct legal test for voluntary leaving (paragraph 14). Then it used that test. Finally, it set out the correct legal test for misconduct (paragraphs 26 to 28). Then used that test.

[30] The General Division's reasons are more than adequate.¹⁷ It grappled with the right questions. It considered the parties' evidence and arguments. And its reasons add up.

¹⁷ See *Lalonde v Canada (Minister of Human Resources Development)*, 2002 FCA 211; and *Sennikova v Canada (Attorney General)*, 2021 FC 982 at paragraphs 62 and 63.

[31] Nothing I read or heard suggested the General Division used an unfair process or wasn't impartial.

[32] This shows me there isn't an arguable case the General Division made a jurisdictional error or a legal error, or used an unfair procedure.

Conclusion

[33] The Claimant's appeal doesn't have a reasonable chance of success. So I can't give him permission to appeal the General Division decision.

Glenn Betteridge
Member, Appeal Division