



Citation: *TP v Canada Employment Insurance Commission*, 2025 SST 483

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: T. P.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated April 28, 2025
(GE-25-1120)

Tribunal member: Glenn Betteridge

Decision date: May 8, 2025

File number: AD-25-328

Decision

[1] Leave (permission) to appeal is refused. The appeal won't go forward.

Overview

[2] T. P. is the Claimant. He wants permission to appeal a General Division decision. I can give him permission if his appeal has a reasonable chance of success.

[3] The General Division found the Commission correctly decided his benefit period. It was 104 weeks long and ended January 11, 2025. This is the maximum number of weeks the law allows.¹ So the General Division dismissed his appeal.

[4] The Claimant argues the General Division made an important factual error. He says there was no information on the Commission's website about being unavailable and forfeiting benefits. And he says a Service Canada agent gave him bad information. He relied on that information and lost out on benefits.

[5] Unfortunately, I can't give him permission to appeal because his appeal doesn't have a reasonable chance of success.

Issue

[6] Does the Claimant's appeal have a reasonable chance of success?

I am not giving the Claimant permission to appeal

[7] I read the Claimant's application to appeal.² I read the General Division decision. I reviewed the documents in the General Division file.³ And I listened to the hearing recording.⁴ Then I made my decision.

¹ See section 10(14) of the *Employment Insurance Act*.

² See AD1.

³ See GD2, GD3, GD4, and GD5.

⁴ The hearing lasted approximately 48 minutes.

[8] I empathize with the Claimant. The EI scheme is complicated and technical. It can be extremely difficult to understand the details and the basic principles. And the information on the Commission's website doesn't seem to answer the basic question the Claimant had.

[9] It's also possible he misunderstood the general information—which wasn't legal advice—the Service Canada agent gave him about being out of Canada. He didn't lose benefits for the weeks he was outside Canada. He could still get the benefits when he returned to Canada—so long as his claim hadn't ended. Unfortunately, the law ended his claim after 104 weeks, before he got all the weeks of benefits he could have received.

[10] But the facts, evidence, and arguments the Claimant believes are important to his case aren't legally relevant. And it could not allow his appeal because the law about allocating severance pay and extending benefit periods doesn't make sense to him and seems unfair.

[11] The General Division had to apply the law to the uncontested evidence about his benefit period. That's what it did. And there isn't an arguable case it made an error.

[12] For these reasons and 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 success⁵

[13] I can give the Claimant permission to appeal if his appeal has a reasonable chance of success.⁶ This means he has to show an **arguable ground of appeal** upon which his appeal **might succeed**.⁷

⁵ See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

⁶ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

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

[14] I can consider four grounds of appeal, which I call **errors**.⁸ The General Division used an unfair process, or made a jurisdictional error, a legal error, or an important factual error.

[15] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.⁹ He checked the important factual error box on his Application form. Then he wrote:

During my interview with Mr. John Rattray I explained that no information regarding being unavailable for any reason and forfeiting benefit payments, was available anywhere on the Services Canada website. I also explained that based on no information being available on the website, I had to rely on a Service Canada agent to make an informed decision. John did not address where I could find correct information to make an informed decision.¹⁰

There isn't an arguable case the General Division made an important factual error

[16] The General Division makes an important factual error if it bases its decision on a factual finding it made by ignoring or misunderstanding **relevant** evidence.¹¹ Relevant means evidence that the legal test calls for. When the General Division makes this mistake, its decision isn't supported by the relevant evidence.

[17] The General Division had to decide when the Claimant's benefit period ended (paragraph 11). This means it had to look at the evidence about:

- when his benefit period started
- whether it could be extended, and if so for how long
- when his benefit period ended

⁸ See section 58(1) of the DESD Act.

⁹ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

¹⁰ See AD1-4.

¹¹ 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.

[18] That's what the General Division did, without ignoring or misunderstanding any relevant evidence (paragraphs 18 to 28).

[19] The Claimant's evidence about the following wasn't relevant to the law the General Division had to use to decide his benefit period and when it ended: lack of information on the Commission's website, misinformation the Commission gave him, his reliance on that misinformation, his availability while outside Canada, or his job search troubles and tuition expenses.

[20] This means the General Division could not base its decision on this evidence—even though it accepted his testimony (paragraph 30). The General Division reasons explain why this evidence wasn't relevant, based on the law and court decisions it had to follow (paragraphs 28, 33 and 34).

[21] I reviewed the documents in the General Division file and listened to the General Division hearing recording. The relevant evidence supports the General Division's decision.

There's no arguable case the General Division made another type of error

[22] The Claimant is representing himself. So, I considered whether there was an arguable case the General Division made another type of error.¹²

[23] I didn't find an arguable case the General Division made a jurisdictional error. It correctly identified the issue it had to decide (paragraph 11). And identified the issue it would decide to respond to the Claimant's arguments (paragraph 12). Then it decided only those issues.

[24] I didn't find an arguable case the General Division made a legal error. It used the sections of the *Employment Insurance Act* it had to use to decide his benefit period and

¹² 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.

the extension of that period (paragraphs 13 to 18). The General Division's decision is adequate and adds up. And it had no duty to tell the Claimant where on the Service Canada website he could find the answer to his question.

[25] Finally, nothing I read or heard in the General Division file suggested the General Division procedure was unfair to the Claimant.

[26] The Claimant didn't mention whether he had a My Service Canada account. That is one source of information about a person's EI claim. A person might use that information, including the start and end dates of their benefit period, to understand better the benefits they can get.

Conclusion

[27] The Claimant hasn't shown an arguable case the General Division made an error that might change the outcome in his appeal. And I didn't find an arguable case.

[28] This tells me his 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