



Citation: *XW v Canada Employment Insurance Commission*, 2025 SST 681

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Appellant:** X. W.

**Respondent:** Canada Employment Insurance Commission  
**Representative:** Nikkia Janssen

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**Decision under appeal:** General Division decision dated March 17, 2025  
(GE-25-323)

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**Tribunal member:** Elizabeth Usprich

**Type of hearing:** In Writing

**Decision date:** June 26, 2025

**File number:** AD-25-236

## Decision

[1] The appeal is allowed.

[2] The General Division didn't provide a fair process. The Claimant asked for an opportunity to respond to a submission and it isn't known if this was considered. The matter must go back to the General Division so the Claimant has an opportunity to submit a response to the Commission's written materials.

## Overview

[3] The Claimant applied for maternity and parental benefits. The Canada Employment Insurance Commission (Commission) said the Claimant didn't qualify for benefits because she didn't have enough hours.

[4] The Claimant asked the Commission to reconsider, but it wouldn't change its position. The Claimant appealed to the Social Security Tribunal's (Tribunal) General Division.

[5] The Claimant wanted to have the process in writing. The General Division agreed. The General Division gave the parties time to submit their representations.<sup>1</sup> On March 4, 2025, the General Division asked the Commission for additional representations about the possibility of extending the Claimant's qualifying period.<sup>2</sup> The General Division asked the Commission to supply the information by March 11, 2025.

[6] The Commission gave the General Division its representations on March 11, 2025.<sup>3</sup> But the document wasn't shared with the Claimant until March 13, 2025. On March 14, 2025, the Claimant asked for an opportunity to respond to the Commission's Representations.<sup>4</sup>

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<sup>1</sup> See GD5-1 where the General Division gives a deadline of February 27, 2025, to receive documents.

<sup>2</sup> See GD7-1 where the General Division asked the Commission for additional information.

<sup>3</sup> See GD8 the Commission's additional representations to the General Division dated March 11, 2025.

<sup>4</sup> See AD3, the Claimant's email to the General Division on March 14, 2025.

[7] No response was provided to the Claimant and the General Division issued its decision on March 17, 2025.

[8] It isn't clear if the General Division saw the Claimant's request. It isn't clear if the General Division decided it would reject any new submission/document from the Claimant.

[9] The Claimant should have an opportunity to submit her additional information. The case must return to the General Division for further submissions.

## **The parties agree on the outcome of the appeal**

### **I accept the proposed outcome**

[10] The Claimant says the General Division didn't follow a fair process. She says the General Division requested submissions from the Commission. After receiving those submissions, the Claimant asked for an opportunity to respond. This request wasn't acknowledged.

[11] I can intervene (step in) only if the General Division made an error. I can only consider certain errors.<sup>5</sup> If the General Division didn't provide a fair process is an error that I can consider.

[12] The Commission agrees the process may not have been fair. The Commission says although the Claimant submitted the document after a deadline, the General Division should have dealt with the Claimant's request. So, even if the General Division decided not to accept anything further, the General Division should have still turned its mind to what the Claimant requested.

[13] I agree the General Division didn't follow a fair process.<sup>6</sup> The Tribunal interprets its rules in a way that ensures the process is simple, quick and fair.<sup>7</sup> The Tribunal also

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<sup>5</sup> See section 58(1) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>6</sup> See AD1A-3, the Claimant's application to the Appeal Division. See also AD5-5, the Commission's Representations to the Appeal Division.

<sup>7</sup> See Rule 6 and 8 of the *Social Security Tribunal Rules of Procedure*.

has a rule about filing evidence after a deadline.<sup>8</sup> But all the rules together still mean that the Tribunal must turn its attention to a request.

[14] So, after the Claimant asked to submit further information, the Tribunal needed to consider the request. It's possible the General Division missed the new correspondence from the Claimant. But, before issuing its decision, a look at the case file would have given the General Division this information.

[15] The Commission also argues the General Division made an error of law when it extended the qualifying period by an additional week.<sup>9</sup> The Claimant argues the General Division made an important error of fact when it decided the evidence didn't show she was unable to work.<sup>10</sup> Since I have already found an error, I haven't considered these.

## **Remedy**

[16] I agree there is an error with the General Division's process. There are two main ways I can remedy (fix) this. I can make the decision the General Division should have made. I can also send the case back to the General Division if there isn't enough information to make a decision.<sup>11</sup>

[17] The parties say there is missing information. The Appeal Division doesn't take new evidence. The case must go back to the General Division so the additional information can be put forward and a decision made.

## **Conclusion**

[18] The appeal is allowed.

[19] The General Division didn't provide a fair process. The Claimant asked for an opportunity to respond to a submission and it isn't known if this was considered. The

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<sup>8</sup> See Rule 42 of the *Social Security Tribunal Rules of Procedure*.

<sup>9</sup> See AD5-6 of the Commission's Representations to the Appeal Division.

<sup>10</sup> See AD1A-3 and AD1A-8, the Claimant's application to the Appeal Division.

<sup>11</sup> Section 59(1) of the DESD Act allows me to fix the General Division's errors in this way.

matter must go back to the General Division so the Claimant has an opportunity to submit a response to the Commission's written materials.

Elizabeth Usprich  
Member, Appeal Division