



Citation: *II v Canada Employment Insurance Commission*, 2025 SST 783

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: I. I.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated October 4, 2019
(GE-19-2157)

Tribunal member: Glenn Betteridge

Decision date: July 29, 2025

File number: AD-25-463

Decision

[1] I'm not giving I. I. leave (permission) to appeal the 2019 General Division decision.

[2] This means his appeal won't go forward. And the 2019 General Division decision stands unchanged.

Overview

[3] I. I. is the Claimant. He wants permission to appeal a decision the General Division made in 2019.

[4] Before I can decide whether to give him permission, I have to decide whether he's late applying to appeal the General Division decision. If he's late, I have to decide whether I can extend the time for him to appeal.

[5] The Claimant says he learned about the 2019 decision during a General Division hearing of a different appeal, in 2025.¹ He only got a copy of the 2019 General Division decision when the Tribunal emailed it to him in April 2025.

[6] In 2019, the General Division decided the Claimant worked for one day, then voluntarily left his job without just cause.² So the law disqualified him from getting EI benefits.³ And he had to repay benefits (an overpayment).

[7] The Claimant disagrees with the General Division decision. He says the General Division made all four errors I can consider. He had just cause for leaving because his workplace was unsafe. And he had a right to refuse unsafe work.

[8] I found the Claimant filed his appeal in time. Unfortunately, he hasn't shown his appeal has a reasonable chance of success. So his appeal can't go forward.

¹ See General Division file GE-25-789.

² See section 29(c) of the *Employment Insurance Act* (EI Act).

³ See section 30 of the EI Act.

Issues

[9] I will decide two issues.

- Did the Claimant file his appeal late?
- Is there an arguable case the General Division made an error that gives his appeal a reasonable chance of success?

Analysis

The Claimant's application to appeal was in time

[10] A person has to file their application to appeal a General Division decision no more than 30 days after the Tribunal communicates the decision to them.⁴ If they file their application after 30 days, it's late.

[11] I believe the Claimant's evidence he first received the General Division decision in April 2025. The Tribunal record show he filed his application to appeal shortly after. For these reasons and the reasons that follow, I find he filed his appeal on time.

[12] The Claimant didn't show up to the General Division hearing on September 30, 2019. The General Division went ahead and made its decision on October 4, 2019.

[13] The Tribunal's records show it mailed the decision to him at his home address on October 4, 2019. During the appeal process, the Tribunal twice couriered documents to his home address. Once the courier returned the documents to the Tribunal because of a problem with the Claimant's address.

[14] The Claimant says he found out about the 2019 General Division decision during the hearing of a different appeal, on April 4, 2025. The General Division member in that appeal explained she had no power to deal with the Commission's 2019 voluntary leaving decision and the overpayment.⁵ She explained the General Division decided the

⁴ This is what section 57(1)(a) of the *Department of Employment and Social Development Act* (DESD Act) says.

⁵ Listen to the recording of the General Division hearing in GE-25-789 starting at 23:09.

voluntary leaving and overpayment issue in an October 4, 2019 decision. So if he disagreed, he had a right to make an application to the Appeal Division.

[15] The Claimant said he wasn't aware of the 2019 General Division decision.⁶ The member said she would have the Tribunal send the Claimant a copy of the 2019 decision. And the Tribunal emailed the decision to him on April 14, 2025.

[16] On April 18, 2025, the Claimant sent in an application to appeal the "decision I had being given on April 14 25 about 2019 decision."⁷ Unfortunately, the Tribunal registry staff treated his application as part of the Claimant's ongoing 2025 General Division appeal. The Tribunal should have opened a new Appeal Division file.

[17] I find it's more likely than not the Tribunal communicated the 2019 General Division decision to the Claimant on April 14, 2025. Because of the problem sending documents to him in 2019, I accept his evidence he didn't get the decision at that time.

[18] I also find the Claimant sent his application to appeal within 30 days—on April 18, 2025. I have no reason to doubt the Tribunal's records.

[19] So, the Claimant's application to appeal the 2019 General Division decision wasn't late.

But I'm not giving the Claimant permission to appeal

[20] I read the Claimant's two applications to appeal.⁸ I read the General Division decision. I reviewed the documents in the General Division file.⁹ Then I made my decision.

[21] For the reasons that follow, I'm not giving the Claimant permission to appeal.

⁶ Listen to the recording of the General Division hearing in GE-25-789 at 51:38.

⁷ See AD2-9 to AD2-15.

⁸ See AD1. See also AD2-9 to AD2-15.

⁹ See GD2, GD3, GD4, and GD8.

- **The permission to appeal test screens out appeals without a reasonable chance of success**¹⁰

[22] To get permission to appeal, the Claimant has to show an **arguable case the General Division made an error** upon which his appeal **might succeed**.¹¹

[23] The law lets me consider **four types of errors**.¹² The General Division used an unfair procedure, or made a jurisdictional error, a legal error, or an important factual error.

[24] 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

- **The Claimant hasn't shown an arguable case the General Division made an error**

[25] The Claimant checked all four error boxes between his two applications.¹⁵ Then he argues:

- he left his job because it was unsafe, and he has a right to refuse unsafe work under section 125
- he's not happy with the outcome because he's financially unstable
- he's appealing to seek reimbursement of the overpayment resulting from the 2019 decision
- the Commission mishandled his claims and hasn't treated him properly

¹⁰ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act); and *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

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

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.

¹⁵ See AD1-3 and AD2-11.

[26] None of the Claimant's arguments are about an error the law lets me consider.

[27] The application to appeal process isn't the Claimant's opportunity to challenge the Commission's decision or the way it handled his claim or treated him. It's not an opportunity to reargue his General Division appeal. And I can't give him permission to appeal based on financial hardship.

[28] When a claimant doesn't explain or give details about an alleged error, that ground of appeal has no reasonable chance of success.¹⁶ And simply disagreeing with the General Division's findings, or the outcome of the appeal, doesn't show an arguable case the General Division made an error.¹⁷

[29] So the Claimant hasn't shown an arguable case the General Division made an error.

– **I didn't find an arguable case the General Division made an error**

[30] I didn't find an arguable case the General Division made a **procedural fairness error**. The General Division didn't use an unfair process when it went ahead with the hearing without the Claimant. The law says it can do that where it believes the Claimant got the notice of hearing. The General Division considered the law and the facts—and found the Claimant received the notice of hearing.¹⁸

[31] And nothing I read suggested the General Division otherwise used an unfair process or could not decide the Claimant's appeal impartially.

[32] I didn't find an arguable case the General Division made a **jurisdictional error**. Jurisdiction means the authority to decide an issue. The General Division correctly identified the legal issue it had to decide, based on two questions it had to consider.¹⁹ Then it decided only that issue, by answering the two questions.

¹⁶ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

¹⁷ See *Griffin v Canada (Attorney General)*, 2016 FC 874 at paragraph 20.

¹⁸ See paragraph 3.

¹⁹ See paragraph 4.

[33] I didn't find an arguable case the General Division made a **legal error**. It correctly set out the law about voluntary leaving and just cause—from the *Employment Insurance Act* and binding court decisions.²⁰ Then it used that law.

[34] The General Division's reasons are more than adequate. It considered and addressed the Claimant's argument he had just cause for leaving because the work was unsafe.²¹ It also considered other circumstances raised by the Claimant or the facts in the case.²²

[35] Finally, I didn't find an arguable case the General Division made an **important factual error**. I reviewed the General Division file and compared that evidence to the evidence the General Division used to reach its decision. I didn't find legally relevant evidence the General Division misunderstood or ignored. This tells me the General Division decision is supported by the relevant evidence.

Conclusion

[36] 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.

[37] 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

²⁰ See paragraphs 7 and 8.

²¹ See paragraph 9.

²² See paragraphs 8 and 10.