



Citation: *AJ v Canada Employment Insurance Commission*, 2025 SST 780

Social Security Tribunal of Canada Appeal Division

Extension of Time Decision

Claimant: A. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated April 26, 2024
(GE-24-979)

Tribunal member: Elizabeth Usprich

Decision date: July 29, 2025

File number: AD-25-452

Decision

[1] An extension of time to apply to the Appeal Division is refused. The application will not proceed.

Overview

[2] A. J. is the Claimant. He applied for 35 weeks of Employment Insurance (EI) parental benefits. But the other parent, also applied for 35 weeks of EI parental benefits.

[3] Parents can share up to a maximum of 40 weeks of standard parental benefits. The Canada Employment Insurance Commission (Commission) paid both parents the full number of weeks. Eventually, the Commission realized that neither parent could have 35 weeks of EI parental benefits.

[4] The Commission said the Claimant got 29 weeks of EI benefits that he shouldn't have received.¹ But it only asked the Claimant to pay back 14 weeks of EI benefits. The Commission said some of the delay was on its part.²

[5] The Claimant appealed the Commission's decision to the Social Security Tribunal (Tribunal) General Division. On March 9, 2024, the Claimant emailed the General Division his application for his appeal.³ The Claimant had a hearing with the General Division on April 25, 2024. The General Division released its decision on April 26, 2024.

[6] The Tribunal's records show the General Division decision was emailed to the Claimant on April 29, 2024. On June 23, 2025, over a year later, the Claimant emailed the Tribunal's Appeal Division asking for permission to appeal.

¹ See GD3-23 of the Commission's Reconsideration File.

² See GD4-3 of the Commission's arguments to the General Division.

³ See GD2 the Claimant's Notice of Appeal to the General Division.

[7] The Claimant's appeal won't go ahead. I can't give the Claimant an extension of time to appeal because he applied over a year after the General Division's decision was communicated to him.

Issues

[8] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) Can I extend the time for filing the application?

Analysis

The Claimant's application to the Appeal Division was late

[9] The General Division issued its decision on April 26, 2024.⁴ The Tribunal's records show the General Division decision was emailed to the Claimant on April 29, 2024.

[10] The Claimant filed his appeal with the Appeal Division on June 23, 2024.⁵

[11] The law explains that a person must apply to the Appeal Division within 30 days after receiving the General Division's written decision.⁶ The law also says no extension of time can be granted if the application is filed more than one year after the written decision was communicated.⁷

[12] In the Claimant's Application to the Appeal Division, he wrote that he thinks there has been a misunderstanding. He wrote that when he spoke to a Tribunal call agent they were unaware of how he submitted an appeal to the Appeal Division on March 9, 2024.⁸

⁴ See General Division decision at AD1A-1 to AD1A-6.

⁵ See the Claimant's Application to the Appeal Division AD1-1 to AD1-8.

⁶ See section 57(1) of the *Department of Employment and Social Development Act* (DESD Act) and section 26(2) of the *Social Security Tribunal Rules of Procedure* (Rules).

⁷ See section 57(2) of the *DESD Act*.

⁸ See AD1-6 of the Claimant's Application to the Appeal Division.

[13] I didn't see anything in our records showing an appeal to the Appeal Division from that date. So, I asked the Tribunal Staff to check all our records to see if there was any additional email from the Claimant. Our records showed there was no missing email documents.

[14] So, on July 9, 2025, I wrote the Claimant. I asked him to explain more about when he received the General Division's April 26, 2024, decision. I asked him to let me know about any delay he might have had receiving the decision.

[15] On July 20, 2025, the Claimant responded.⁹ The Claimant says that he "received the General Division before April 2024". He added, "And I already submitted an appeal at the same time." He noted, "there is an email sent to your email address in March 9, 2024 including my appeal form".

[16] Unfortunately, I think the Claimant has confused the decision he would have received from the Commission versus the Tribunal. The Commission issued its reconsideration decision on February 22, 2024.¹⁰ Following that, the Claimant **did** email the Tribunal on March 9, 2024.¹¹ This was his Notice of Appeal to the Tribunal's General Division.

[17] After receiving the Claimant's Notice of Appeal, the General Division held a hearing on April 25, 2024. It then issued its decision on April 26, 2024 and sent the decision to all parties on April 29, 2024.

[18] The Tribunal's Rules say when the Tribunal sends a document by email, the recipient is considered to receive it on the next business day.¹² The Tribunal sent the email to the parties on April 29, 2024 so it's deemed received the next business day. So, I find the General Division decision was communicated to the Claimant on April 30,

⁹ See AD1B-1, the Claimant's response to my request for additional information.

¹⁰ See GD3-37 of the Commission's Reconsideration File.

¹¹ See GD2-1 of the Claimant's Notice of Appeal to the Social Security Tribunal General Division.

¹² See section 22(3) of the *Rules*.

2024. I checked the email address the Tribunal used to send the message. It's the same email address the Claimant is currently using.

[19] The April 29, 2024 email from the Tribunal says,

The attachment(s) to this email are part of your Social Security Tribunal appeal. Open and read the attachment(s) as soon as you get them. This email and its attachment(s) are considered received the day after we sent them.

[20] The Tribunal instructed the Claimant to open the email and read the attached decision when he received it. There were two attachments with the email. The first was a letter about appealing the General Division's decision if the Claimant disagrees with the decision. That letter explains he only has 30 days to submit the appeal form. The second was the decision itself.

[21] I have decided that communication took place when the decision was deemed received on April 30, 2024. I realize the Claimant says that he received the decision before April 2024 and that he submitted an appeal at the same time. That isn't possible. The General Division hearing didn't take place until April 25, 2024.

[22] I think the Claimant has confused two different processes. I think he has mixed up his appeal from the Commission's Reconsideration Decision and his desire to appeal the Tribunal's General Division decision. Again, on March 9, 2024, the Claimant **did** appeal but that was the Commission's Reconsideration decision. But that started the process with the Tribunal. If the Claimant disagreed with the General Division's decision, unfortunately, he had to appeal that separately.

[23] So, the Claimant filed his appeal with the Appeal Division on June 23, 2025. This is well over a year after the General Division's decision was communicated to him on April 30, 2024.

The law doesn't allow me to extend the time for filing the application

[24] The Claimant submitted his application to the Appeal Division more than a year after the General Division's decision was communicated to him. I don't have the

authority to allow more time in this situation. The law says an application can't proceed **for any reason** if it's submitted more than a year after the General Division decision was communicated.¹³ So, I don't have to decide if the Claimant's appeal has a reasonable chance of success.¹⁴

Conclusion

[25] I have not given the Claimant an extension of time to apply to the Appeal Division. This means that the application will not proceed.

Elizabeth Usprich
Member, Appeal Division

¹³ This is found in section 57(2) of the *DESD* Act.

¹⁴ See section 58(2) of the *DESD* Act.