



Citation: *JZ v Canada Employment Insurance Commission*, 2025 SST 796

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: J. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated April 29, 2025
(GE-25-878)

Tribunal member: Glenn Betteridge

Decision date: August 1, 2025

File number: AD-25-453

Decision

[1] J. Z. was late filing his application to appeal and I'm not extending the time.

[2] Even if I'm wrong about that, I can't give him leave (permission) to appeal the General Division decision.

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

Overview

[4] J. Z. is the Claimant.

[5] He wants permission to appeal a General Division decision. I can give him permission if he has a reasonable chance of winning his appeal. But since he was late filing his application, I first have to decide whether to extend that time.

[6] I'm not extending the time because he didn't give a reasonable explanation for his delay.

[7] The General Division dismissed his appeal. It decided it could not backdate his biweekly EI reports because he didn't show he had "good cause" for the delay filing them.¹

[8] The Claimant argues the General Division made three errors. Each error is part of the General Division's ableist approach that fails to account for his health conditions and limitations adequately.

[9] Unfortunately, the Claimant hasn't shown an arguable case the General Division made an error that gives his appeal a reasonable chance of success. So, I can't give him permission to appeal.

¹ Section 10(5) of the *Employment Insurance Act* (EI Act) sets out that legal test.

Issues

[10] I will decide three issues.

- Did the Claimant file his appeal late, past the 30-day deadline?
- If he did, did he give a reasonable explanation, which lets me extend the deadline?
- Does his appeal of the General Division decision have a reasonable chance of success?

Analysis

The application was late

[11] The tribunal emailed the General Division decision to the Claimant on April 29, 2025.² He doesn't deny he received that email. So, the Tribunal's rules say I can assume he received it the next business day—**April 30, 2025**.³

[12] Then the Claimant had 30 days to make his application to appeal—on or before **May 30, 2025**.⁴

[13] The Tribunal's date stamp shows it received his application on **June 23, 2025**. I have no reason to doubt the date stamp. And the Claimant doesn't dispute his application was late.

[14] So, I find the Claimant's application was late.

² The Tribunal's records show this.

³ See sections 22(3) and 22(4) of the *Social Security Tribunal Rules of Procedure* (SST Rules).

⁴ See section 57(1)(a) of the *Department of Employment and Social Development Act* (DESD Act).

I'm not extending the time because the Claimant hasn't given a reasonable explanation

[15] I can extend the time for the Claimant to file his application to appeal if he gives a reasonable explanation for why his application is late.⁵ He gives two explanations.⁶

[16] First, he explains he was in touch with the X in May to get help. He waited but could not reach them again.

[17] This explanation isn't reasonable. The community organization isn't a legal organization. It doesn't give legal advice or services. The Claimant knew (or should have known) about the 30-day deadline to appeal. It's written in the cover letter the Tribunal emailed with the decision. That letter also gives plain language information about how to appeal and includes a link to the application form.⁷

[18] In these circumstances, it didn't make sense for the Claimant to wait for the community organization to get back to him. And it wasn't reasonable to let the deadline pass rather than filing his application and asking for more time to send further reasons.

[19] Second, the Claimant explains he was confused. He says he received an email from the Tribunal on May 27, "saying I had 30 days to submit...I thought I had extra time from that date."⁸

[20] This explanation isn't reasonable. That's not what the email said. It says: "You have 30 days **from the day you received** the General Division decision to submit your form." [I added bold.] This is the same information the Tribunal included in the cover letter with the decision. That information is also on the Tribunal's website. The General Division file shows me the Claimant is well educated, articulate, and has held responsible jobs and volunteer positions. It's reasonable to believe he can read and understand the information the Tribunal sent him twice before the appeal deadline.

⁵ See section 57(2) of the DESD Act and section 27(2) of the SST Rules.

⁶ See AD1B-3.

⁷ The letter says, "You have **30 days from the day you receive this letter** to submit your form."

⁸ See AD1B-3.

[21] There's another reason the Claimant's explanations aren't reasonable. The Claimant should have been hyper-aware of the importance of meeting filing deadlines. He had to appeal to the General Division because he didn't file his biweekly reports on time. And his appeal was about his duty under the EI program to find out about his rights and obligations, and to act on that information in a timely way.

The Claimant's appeal doesn't have a reasonable chance of success

[22] Even if I'm wrong not to extend the time, the Claimant's appeal can't go forward. That's because he doesn't have a reasonable chance of winning his appeal.

– The permission to appeal test

[23] The permission to appeal test screens out appeals that don't have a reasonable chance of success.⁹ I can let an appeal go forward where there's an arguable case the General Division made an **error** upon which the appeal **might succeed**.¹⁰

[24] The law lets me consider **four types of errors**.¹¹ The General Division used an unfair procedure, or made a jurisdictional error, a legal error, or an important factual error.

[25] The Claimant check all four error boxes on his application form. But he only explained three. He didn't explain how or why the General Division made a jurisdictional error, so he hasn't shown it made that error.¹²

– I don't accept the Claimant's arguments—there's no arguable case the General Division made an error

[26] The Claimant says the General Division decision "reflects an ableist framework that treats claimants with disabilities as though they are unaffected by their conditions."¹³ He argues the General Division made three errors. Each error is an

⁹ 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.

¹⁰ See *Osaj v Canada (Attorney General)*, 2016 FC 11.

¹¹ See section 58(1) of the DESD Act.

¹² See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

¹³ See AD1-9.

example of the General Division's failure to account for his health condition and limitations adequately.

[27] First, the Claimant argues the General Division failed to respect procedural fairness. He says it's unclear whether the General Division gave "adequate consideration or weight" to all the documents he submitted, especially his medical records.¹⁴

[28] There isn't an arguable case the General Division made a procedural fairness error.

[29] The Claimant's argument misunderstands procedural fairness. It is about the **process** the General Division used to hear and decide his appeal, and whether the General Division member was impartial. The Claimant's argument isn't about the process. It's about how the General Division assessed (considered and weighed) the evidence to reach its decision. In other words, it about the General Division's reasons for decision and the outcome.

[30] I have kept in mind his argument when I consider whether the General Division made an important factual error, next.

[31] Second, the Claimant argues the General Division made an important error of fact. Because it "failed to fully consider the severity and impact of my documented chronic health conditions on my ability to act as a reasonable person when managing my EI application."¹⁵ He says his medical conditions caused chronic fatigue, joint pain, difficulty managing daily tasks, anxiety, insomnia, and occasional difficulties with memory, attention, and mental focus. And he argued these symptoms had a real and measurable impact on his daily functioning and capacity to follow up on administrative processes.

¹⁴ See AD1-9.

¹⁵ See AD1-9.

[32] The Claimant made the same arguments at the General Division.¹⁶ The General Division decision squarely addresses this argument, and the evidence he relied on to support it.

[33] There isn't an arguable case the General Division made an important factual error by ignoring or misunderstanding evidence about his disability-related restrictions and limitations. Or the relevance of this evidence to the section 10(5) EI Act "good cause" test he needed to meet to get his reports backdated.

[34] I compared the Claimant's evidence to the General Division's analysis. There isn't an arguable case the General Division ignored or misunderstood his evidence. (Or his argument flowing from this evidence.)

[35] The General Division doesn't have to refer to every piece of evidence. And it's the General Division's job to weigh the evidence—I can't re-weigh it.

[36] The General Division decision shows me it considered in great detail the Claimant's evidence of his disability-related restrictions and limitations (paragraphs 27, 38, and 40 to 47). It considered his evidence these symptoms made him unable to file his reports in a timely manner or make efforts to find out about his obligation to do that. And it considered evidence of his ability to do other, similar activities—like taking on-line courses, applying for jobs, and arranging his volunteer position in Africa—during the relevant time (paragraph 48).

[37] So, the relevant evidence supports the General Division's his rheumatoid arthritis, eczema, and their impacts didn't block or impair his ability to follow-up with the Commission (paragraph 49). And the relevant evidence supports the General Division decision he didn't meet the legal test for good cause (paragraph 50).

[38] Third, the Claimant argues the General Division made a legal error when it didn't interpret the "reasonable person" standard in the context of his health conditions and

¹⁶ Se GD32-44 and GD2-45.

limitations.¹⁷ He argues this standard has to be applied in a person's circumstances, including any disability or chronic illness that affects their ability to act.

[39] There isn't an arguable case the General Division misinterpreted the good cause legal test from section 10(5) of the EI Act. The Federal Court of Appeal has said that test is in part subjective, based on an appreciation of the fact of each case, since there is no easily to apply objective principle.¹⁸ So the question is what a reasonable person would have done in **their circumstances**.¹⁹ The legal test the General Division used took into account the effect of the Claimant's disability-related impairments and restrictions on his ability to find out about his duties under the EI program.

[40] The General Division considered his subjective circumstances under "exceptional circumstances" rather than in its reasonable person analysis. But this doesn't mean the General Division misinterpreted the legal test for good cause from the EI Act or binding court decisions. The Claimant's argument essentially asks me to ignore the General Division's exceptional circumstances analysis (paragraphs 36 to 50).

[41] The General Division considered in detail the Claimant's circumstances—disability-related impairments and restrictions included—when it decided whether he was excused from meeting the strict, objective reasonable person standard. And it found the evidence showed **his circumstances didn't make it unreasonable to expect him** to take steps to find out about his rights and obligations under the EI Act in a timely way (paragraphs 38, 47, 48, and 38 to 50).

¹⁷ See AD1-9.

¹⁸ See *Bradford v Canada Employment Insurance Commission*, 2012 FCA 120; *Canada (Attorney General) v Brace*, 2008 FCA 118; and *Canada (Attorney General) v Albrecht*, A-172-85 (FCA).

¹⁹ See *Quadir v Canada (Attorney General)*, 2018 FCA 21.

Conclusion

[42] The Claimant's appeal can't go forward for two reasons.

[43] The Claimant missed the deadline to file his application to appeal. But he hasn't met the test to get an extension.

[44] And he hasn't shown his appeal has a reasonable chance of success.

Glenn Betteridge
Member, Appeal Division