



[TRANSLATION]

Citation: *AB v Canada Employment Insurance Commission*, 2025 SST 163

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: A. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 13, 2025
(GE-25-42)

Tribunal member: Pierre Lafontaine

Decision date: February 25, 2025

File number: AD-25-116

Decision

[1] Permission to appeal is refused. The appeal won't be going ahead.

Overview

[2] The Applicant (Claimant) applied for Employment Insurance (EI) benefits on September 30, 2024. She asked that the initial claim be treated as though it was made earlier, on January 10, 2024.

[3] The Respondent (Commission) denied her request. The Commission reconsidered and maintained its initial decision. The Claimant appealed to the Tribunal's General Division.

[4] The General Division determined that the Claimant was late in obtaining the necessary information on EI requirements. It determined that the Claimant had taken no steps to obtain information from the Commission. The General Division found that the Claimant hadn't shown good cause for the entire period of the delay in applying for EI.

[5] The Claimant wants to appeal the General Division's decision. I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[6] I am refusing permission to appeal because the Claimant hasn't raised a ground of appeal based on which the appeal has a reasonable chance of success.

Issue

[7] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error made by the General Division?

Analysis

[8] The law specifies the only grounds of appeal of a General Division decision.¹

These reviewable errors are the following:

1. The General Division hearing process wasn't fair in some way.
2. The General Division didn't decide an issue that it should have decided. Or, it decided something it didn't have the power to decide.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

[9] Permission to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant doesn't have to prove her case but must establish that her appeal has a reasonable chance of success. In other words, that there is arguably some reviewable error based on which the appeal might succeed.

[10] I will give permission to appeal if I am satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

Does the Claimant's appeal have a reasonable chance of success based on a reviewable error made by the General Division?

[11] The Claimant argued that she honestly wasn't aware that the 52-week qualifying period preceded the claim start date. She believed that the 52-week period preceded the last day worked, being January 10, 2024. She claimed that for the period from January 2023 to January 2024, she had accumulated more than 700 hours to qualify for EI benefits.

¹ See section 58(1) of the *Department of Employment and Social Development Act*.

[12] She said that the General Division didn't consider her ignorance of the qualifying period. She is asking the Appeal Division to reconsider the General Division's decision because she is going through a tough time and really needs the benefits.

[13] The *Employment Insurance Act* (Act) says that a claim for benefits made after the time prescribed for making the claim will be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.² Good cause has to be shown throughout the entire period of the delay.

[14] To establish good cause under the law, a claimant must be able to show that they did what a reasonable person in their situation would have done to find out about their rights and obligations under the Act.

[15] A claimant has an obligation to take "reasonably prompt" steps to determine entitlement to EI benefits and to ensure their rights and obligations under the Act. A claimant must also take reasonable steps to confirm with the Commission their personal beliefs or any information received from third parties. This obligation involves a duty of care that is both demanding and strict.³

[16] The General Division determined that the Claimant didn't prove that she had good cause for her delay in applying for benefits because she was late in obtaining the necessary information on EI requirements. It said that two of the Claimant's friends had told her to check with EI, but she didn't take any steps to do so. The General Division found that the Claimant hadn't shown good cause for the entire period of the delay in applying for EI.

² See section 10(4) of the *Employment Insurance Act*.

³ *Canada (Attorney General) v Dickson*, 2012 FCA 8; *Canada (Attorney General) v Kaler*, 2011 FCA 266; *Canada (Attorney General) v Innes*, 2010 FCA 341; *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Carry*, 2005 FCA 367; *Canada (Attorney General) v Larouche* (1994), 176 N.R. 69 at para 6 (FCA); *Canada (Attorney General) v Brace*, 2008 FCA 118; *Canada (Attorney General) v Albrecht*, 1985 CanLII 5582 (FCA), [1985] 1 FC 710 (CA).

[17] As noted by the General Division, good faith and ignorance of the law aren't good cause for delay in applying for benefits.

[18] It is well established that a delay in applying for benefits because of an erroneous and unverified belief with the Commission, such as the determination of the qualifying period, doesn't constitute good cause under the law.⁴ Looking for another job or relying on your own resources also doesn't constitute "good cause" for a delay in applying for benefits within the meaning of the Act.⁵

[19] The Claimant had an obligation to act quickly to ask the Commission whether she was entitled to EI benefits, without waiting eight months after her job ended. She didn't show before the General Division that she did what any reasonable person in her situation would have done to find out her rights and obligations under the law.

[20] The Claimant didn't show before the General Division that she had good cause for the delay in applying for benefits throughout the entire period of the delay, from January 10, 2024, to September 28, 2024.

[21] Since there was no reason to allow the antedate request, the General Division concluded that the Claimant hadn't worked enough hours to qualify for EI benefits. She needed 700 hours, but had accumulated 550 hours during the qualifying period from October 1, 2023, to September 28, 2024.

[22] I see no reviewable error made by the General Division based on which the appeal might succeed.

[23] I have to reiterate that the Appeal Division isn't permitted to make a different finding from the General Division based on the same facts, given the extent of its jurisdiction and the absence of an error of law, a breach of a principle of natural justice, or an arbitrary finding of fact.⁶

⁴ *Canada (Attorney General) v Innes*, 2010 FCA 341.

⁵ *Howard v Canada (Attorney General)*, 2011 FCA 116.

⁶ *Quadir v Canada (Attorney General)*, 2018 FCA 21.

[24] After reviewing the reconsideration decision, the General Division's decision, and the arguments supporting the application for permission to appeal, I find that the appeal has no reasonable chance of success. The Claimant hasn't raised any issue that could justify setting aside the decision under review.

Conclusion

[25] Permission to appeal is refused. The appeal won't be going ahead.

Pierre Lafontaine
Member, Appeal Division