



Citation: *PB v Canada Employment Insurance Commission*, 2025 SST 1315

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

# **Extension of Time and Leave to Appeal Decision**

**Applicant:** P. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated October 14, 2025  
(GE-25-2617)

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**Tribunal member:** Glenn Betteridge

**Decision date:** December 10, 2025

**File number:** AD-25-781

## Decision

[1] I'm giving P. B. an extension of time to apply to appeal the General Division decision. But I can't give her leave (permission) to appeal that decision.

[2] This means her appeal can't go forward.<sup>1</sup> And the General Division decision stands unchanged.

[3] She can ask the Canada Employment Insurance Commission (Commission) whether it will write off her overpayment. I explain more about write off below.

## Overview

[4] P. B. is the Claimant. In April 2020, she made a claim for the Employment Insurance Emergency Response Benefit (EI ERB). The Commission paid her benefits for 25 weeks.

[5] The General Division decided she wasn't eligible for the EI ERB. This meant she had a \$12,500 overpayment.

[6] The Claimant has applied for an extension of time and permission to appeal the General Division decision.

[7] I am extending the time for the Claimant to file her application to appeal because she gave a reasonable explanation for her delay.

[8] Unfortunately, I can't give her permission to appeal the General Division decision. Her arguments misunderstand the law and the evidence the General Division had to consider. So those arguments don't show an arguable case the General Division made an error that gives her a reasonable chance of winning her appeal.

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<sup>1</sup> The Appeal Division process has two steps. First, a person applies for permission to appeal a General Division decision. If they don't get permission, their appeal can't go forward. Second, if they get permission, they get to argue their case in writing or at a hearing.

## Issues

[9] I will decide three issues.

- Was the Claimant late filing her application to appeal the General Division decision?
- If so, should I extend the time for her to file her application?
- If I extend the time, does she have a reasonable chance of winning her appeal?

## Analysis

### **The Claimant was late filing her application to appeal**

[10] The Claimant admits she filed her appeal late.<sup>2</sup> In other words, more than 30 days after the Tribunal communicated the General Division decision to her.<sup>3</sup>

[11] I accept what the Claimant says because it's supported by the Tribunal's appeal files. The Tribunal communicated the General Division decision to her on October 18, 2025.<sup>4</sup> The Tribunal received her application to appeal on December 5, 2025—more than 30 days later.

[12] But she filed her application less than one year after the Tribunal communicated the General Division decision to her. So the law lets me extend the 30-day deadline.<sup>5</sup>

### **I'm extending the time for the Claimant to file her application**

[13] I can extend the time when a person gives a reasonable explanation for why their application is late.<sup>6</sup>

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<sup>2</sup> See AD1-5 and AD1B-1.

<sup>3</sup> See section 57(1)(a) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>4</sup> Section 22(3) the *Social Security Tribunal Rules of Procedure* (SST Rules) says I can consider she got the document the day after the Tribunal emailed it to her.

<sup>5</sup> See section 57(2) of the DESD Act.

<sup>6</sup> See section 27(2) of the SST Rules.

[14] The Claimant gave a reasonable explanation.

[15] She says she followed the General Division decision.<sup>7</sup> It says she can contact the Commission to ask it to write off the overpayment. She explains she tried to do this. But ended up calling many numbers and speaking to many people—and no one gave her information about the write-off process. The Tribunal's telephone logs show the Commission referred her to the Tribunal, even though the General Division's decision was final. And the Tribunal has no power to write off overpayments.

[16] The Claimant acted reasonably by pursuing a write-off rather than filing her application to appeal. If the Commission decided to write off her overpayment (debt), then she would not need to appeal the General Division decision. It's possible the Commission might have decided her write-off request before the deadline to file her application to appeal.

### **But I can't give the Claimant permission to appeal**

[17] I will give the Claimant permission to appeal if there's an arguable case the General Division made an error that gives her a reasonable chance of winning her appeal.<sup>8</sup> I can consider four types of errors, including important factual errors.<sup>9</sup>

[18] The General Division makes an important factual error when it reaches its decision by ignoring or misunderstanding **relevant** evidence.<sup>10</sup> Relevant means evidence called for by the legal test.

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<sup>7</sup> See AD1-5.

<sup>8</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 11.

<sup>9</sup> See section 58(1) of the DESD Act.

<sup>10</sup> Section 58(1)(c) of the DESD Act says it is a ground of appeal where the General Division based its decision on an erroneous finding of fact it made in a perverse or capricious manner or without regard for the material before it. I have described this ground of appeal using plain language, based on the words in the Act and the cases that have interpreted the Act.

[19] The Claimant argues the General Division<sup>11</sup>

- ignored and failed to genuinely consider the Commission’s May 1, 2020 letter, which granted her benefits
- ignored and failed to genuinely consider that she was 15 years old when she applied for the EI ERB, and the “cognitive context” that implies
- ignored that she genuinely believed she was eligible for the EI ERB, based on the May 1, 2020 letter and her age at the time

[20] The General Division didn’t have to consider the letter, her age, the cognitive context, or her genuine belief she was eligible for the EI ERB. None of this evidence was relevant to the legal test the Claimant had to meet to show she was eligible for the EI ERB, and win her appeal.

[21] The General Division set out the correct legal test to decide whether the Claimant was eligible for the EI ERB (paragraphs 13 to 18). Then applied that test to the relevant evidence in her case, without ignoring or misunderstanding evidence. In other words, there’s no arguable case the General Division made an important factual error.

[22] I appreciate the Claimant is very frustrated because the Commission initially denied her claim. Then changed its mind in the May 1, 2020 decision letter—based on the same information. So the Commission ended up paying her benefits in error after first making the correct decision she wasn’t eligible. And now—years later—she has a large overpayment (debt).

[23] Although these facts aren’t relevant to her appeal, they might be relevant if she asks the Commission to decide whether it will write off her overpayment (debt).

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<sup>11</sup> See AD1-3 and AD1B-1.

## The Commission's power to write off an overpayment (debt)

[24] Only the Commission has the power to write off an overpayment and debt. It gets this power from section 56 of the *Employment Insurance Regulations*. That section sets out several reasons the Commission can use to write off an overpayment and debt. Two seem relevant to the Claimant's situation.

- When the Commission made a **claim processing error** (section 56(2)(b)(i) of the EI Regulations). The May 1, 2020 letter might count as a processing error.

The Claimant can write to the Commission and ask it to write off her overpayment under this section, for that reason.

- When repayment would cause **undue hardship** for a claimant (section 56(1)(f)(ii) of the EI Regulations). Undue hardship is often called **financial hardship**.

The Canada Revenue Agency (CRA) collects debts for the Commission. It has a collection policy.<sup>12</sup> The policy says what financial hardship means. And it sets out the information the CRA needs from a person. So, the Claimant can also contact the CRA and ask for a write-off due to undue/financial hardship.<sup>13</sup>

[25] The Claimant can get more information about the Commission's write-off power and the process it follows from its policy manual.<sup>14</sup>

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<sup>12</sup> See CRA, *IC13-2R1, Government programs collection policies*, available at [www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic13-2.html](http://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic13-2.html).

<sup>13</sup> For information and to contact the CRA about debt collection, go to: [www.canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/when-you-money-collections-cra/contact-canada-revenue-agency-about-your-debt.html](http://www.canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/when-you-money-collections-cra/contact-canada-revenue-agency-about-your-debt.html).

<sup>14</sup> See Chapter 20 (Write-off) of the *Digest of Benefit Entitlement Principles*: [www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/digest/chapter-20/table-of-contents.html](http://www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/digest/chapter-20/table-of-contents.html).

## **Conclusion**

[26] I can't give the Claimant permission to appeal the General Division decision.

[27] So her appeal can't go forward.

Glenn Betteridge  
Member, Appeal Division