



[TRANSLATION]

Citation: *NC v Canada Employment Insurance Commission*, 2025 SST 837

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	N. C.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated July 7, 2025 (GE-25-1830)
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Tribunal member:	Pierre Lafontaine
Decision date:	August 11, 2025
File number:	AD-25-532

Decision

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

Overview

[2] The Applicant (Claimant) applied to receive Employment Insurance (EI) benefits on April 6, 2020. A period for the Employment Insurance Emergency Response Benefit (EI ERB) was established. On April 6, 2020, the Respondent (Commission) paid the Claimant a \$2,000 advance payment. In total, she received 28 weeks of the EI ERB.

[3] On March 23, 2023, the Commission decided that the Claimant wasn't eligible for the EI ERB because she hadn't earned more than \$5,000 in insurable earnings in the 52 weeks before the date of her EI ERB claim. On reconsideration, the Commission maintained its initial decision. The Claimant disagreed and appealed to the Tribunal's General Division.

[4] The General Division found that the Claimant hadn't earned the \$5,000 in insurable earnings the law requires. So, she wasn't eligible to receive the EI ERB. Her appeal was dismissed.

[5] The Claimant is asking the Appeal Division for permission to appeal the General Division decision. She argues that the General Division didn't consider the fact that she was unable to work for many months because the government imposed a mandatory shutdown during the pandemic. As a result, she could not earn the required amount. She argues that she acted in good faith because she stopped claiming benefits as soon as she went back to work. The law allows the Commission to reduce or write off her debt.

[6] 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.

[7] 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

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

Analysis

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

[10] An application for 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 has to be met at the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant doesn't have to prove her case; she has to instead establish that her appeal has a reasonable chance of success. This means that she has to show that there is arguably a reviewable error based on which the appeal might succeed.

[11] 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 the General Division

may have made?

[12] The Claimant argues that the General Division didn't consider the fact that she was unable to work for many months because the government imposed a mandatory shutdown during the pandemic. As a result, she could not earn the required amount. She argues that she acted in good faith because she stopped claiming benefits as soon as she went back to work. The law allows the Commission to reduce or write off her debt.

[13] Before the General Division, the Claimant admitted that she hadn't earned the \$5,000 in insurable earnings the law requires to be eligible for the EI ERB. So, the General Division found that she wasn't eligible to receive the EI ERB.

[14] The Claimant started work on November 1, 2019. She stopped working on March 18, 2020, because of the pandemic. The law said that the \$5,000 had to be earned in 2019 or in the 52 weeks **before** the job loss related to the pandemic—the period **before** the government imposed the shutdown.

[15] I see no reviewable error made by the General Division. The Claimant received the EI ERB when she wasn't eligible and has to pay it back.

[16] The case law of the Federal Court of Appeal has clearly established that an amount received without eligibility—even in good faith—doesn't excuse a claimant from having to pay it back.¹ Also, the law gives the Tribunal no discretion to reduce or write off the amount that has to be paid back.

[17] As the General Division noted, the Claimant has to make her request directly to the Commission. It has exclusive jurisdiction to decide whether a debt owed to it should be written off under the law.

[18] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I am of the view that the appeal

¹ See *Lazuno v Canada (Attorney General)*, 2005 FCA 324.

has no reasonable chance of success. The Claimant hasn't raised any issue that could justify setting aside the decision under review.

Conclusion

[19] Permission to appeal is refused. The appeal won't go ahead.

Pierre Lafontaine
Member, Appeal Division