



Citation: *AZ v Canada Employment Insurance Commission*, 2026 SST 136

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

### **Leave to Appeal Decision**

**Applicant:** A. Z.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated December 18, 2025  
(GE-25-3201)

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**Tribunal member:** Solange Losier

**Decision date:** February 25, 2026

**File number:** AD-26-65

## Decision

[1] A. Z.'s appeal will not proceed. Leave (permission) to appeal is refused.

## Overview

[2] A. Z. is the Claimant. She applied for Employment Insurance benefits on May 23, 2025. She asked the Canada Employment Insurance Commission (Commission) to antedate her application to an earlier date.<sup>1</sup>

[3] The Commission decided that the Claimant didn't have enough hours of insurable employment to get benefits so a benefit period couldn't be established. It also decided that her application couldn't be antedated to the earlier date because she didn't have good cause during the period of delay.<sup>2</sup>

[4] The General Division decided that the Claimant didn't have good cause throughout the entire period of delay, so her application couldn't be antedated to the earlier date.<sup>3</sup>

[5] The Claimant is now asking for permission to appeal and argues that the General Division didn't follow a fair process.<sup>4</sup>

[6] I am denying permission to appeal because the Claimant's arguments don't show that she has an arguable case upon which the appeal might succeed. So, I can't give her permission to appeal.<sup>5</sup>

## Issues

[7] The issues in this appeal are:

- a) Was the Claimant's application to the Appeal Division late?

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<sup>1</sup> See pages GD3-27 to GD3-28.

<sup>2</sup> See Commission's initial and reconsideration decision at pages GD3-23 to GD3-24, GD3-30 and GD3-33. Also see Commission's arguments at page GD4-2.

<sup>3</sup> See General Division decision at pages AD1A-1 to AD1A-7.

<sup>4</sup> See Application to the Appeal Division at pages AD1-1 to AD1-6.

<sup>5</sup> See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

- b) Is there an arguable case that the General Division didn't follow a fair process?

## Analysis

### The application to the Appeal Division was not late

[8] The deadline to file an application to the Appeal Division is 30 days after the day on which the General Division decision was communicated in writing.<sup>6</sup>

[9] The Tribunal can give an extension of time to file an appeal.<sup>7</sup> When deciding whether to grant or refuse an extension of time, the Tribunal has to consider whether there is a reasonable explanation for the delay.<sup>8</sup>

[10] The General Division issued its decision on December 18, 2025. The Tribunal received the Claimant's application to the Appeal Division on January 30, 2026.<sup>9</sup>

[11] I wrote to the Claimant because it looked like her application to the Appeal Division might have been more than 30 days late. I asked her when she received the General Division decision.<sup>10</sup>

[12] The Claimant disputes that her application was late. She wrote back indicating that she got the decision by mail on December 30, 2025. She then tried emailing her application on January 29, 2026, but the email address she used didn't exist. So, she called the Tribunal, and they emailed her the required paperwork. She completed and submitted it to the Tribunal on January 30, 2026.<sup>11</sup>

[13] I find that the Claimant's application to the Appeal Division was filed on time. It was communicated to her in writing on December 30, 2025. Counting from the following

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<sup>6</sup> See section 57(1)(a) of the DESD Act.

<sup>7</sup> See section 27(1) of the *Social Security Tribunal Rules of Procedure* (SST Rules).

<sup>8</sup> See section 27(2) of the SST Rules.

<sup>9</sup> See section 19(2) of the SST Rules.

<sup>10</sup> See Tribunal letter dated February 4, 2026.

<sup>11</sup> See page AD1B-1.

day, the 30-day deadline to file her application was January 30, 2026. The Tribunal received her application on January 30, 2026, so it was filed on time.

## **The test for getting permission to appeal**

[14] The law says that I can consider four types of errors, and they include, a failure to follow a fair process, jurisdictional, legal, and important factual errors.<sup>12</sup>

[15] I can only give the Claimant permission to appeal if there's an "arguable case" that the General Division made a reviewable error that gives her appeal a reasonable chance of success.<sup>13</sup>

[16] The Claimant set out her reasons for appealing and I have considered them.<sup>14</sup> I've also reviewed the General Division's decision, the file documents and listened to the audio recording before making my decision.

## **I am not giving the Claimant permission to appeal**

### **The Claimant's arguments to the Appeal Division**

[17] The Claimant argues that the General Division didn't follow a fair process, and that the decision is wrong and unfair. She says that her reasons for the delay should not impact whether she deserves to get benefits. She also says that she worked hard and paid EI deductions, which is supposed to protect her in the event of job loss.<sup>15</sup>

### **How to get your application for benefits antedated to an earlier date**

[18] The Claimant has to prove two things to get her application for benefits antedated.<sup>16</sup> She has to prove she had good cause for the entire period of delay. And she also has to prove that she qualified for benefits on the earlier date.

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<sup>12</sup> See section 58(1) of the DESD Act.

<sup>13</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 11 at paragraph 12 and sections 56(1) and 58(2) of the DESD Act.

<sup>14</sup> See page AD1-3.

<sup>15</sup> See page AD1-3.

<sup>16</sup> See section 10(4) of the *Employment Insurance Act* (EI Act).

[19] The Court says that barring exceptional circumstances, claimants are expected to take reasonably prompt steps to understand their obligations under the *Employment Insurance Act* (EI Act).<sup>17</sup>

[20] To establish good cause, the Court also says that claimants must be able to show that they did what a reasonable person in their situation would have done to satisfy themselves of their rights and obligations under the EI Act.<sup>18</sup>

[21] The Court has already decided that trying to find a job or living off savings doesn't amount to good cause.<sup>19</sup>

**The General Division decided that the Claimant didn't have good cause to antedate her application for benefits**

[22] The General Division found that the delay period ran from January 31, 2024 to May 23, 2025.<sup>20</sup> It considered the reasons she provided for submitting her application late.<sup>21</sup>

[23] It found the Claimant had exceptional circumstances, but for only part of the delay. It accepted the Claimant was sick, had surgery and was recovering from surgery so she couldn't take reasonably prompt steps for the period from January 31, 2024, to June 1, 2024.<sup>22</sup>

[24] The General Division concluded that she hadn't proven she had good cause for the delay in applying for benefits throughout the entire period of the delay, so her application couldn't be antedated to the earlier date. It explained that she hadn't acted as a reasonably and prudent person would have done in the circumstances to find out

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<sup>17</sup> See *Canada (Attorney General) v Somwaru*, 2010 FCA 336 at paragraph 11.

<sup>18</sup> See *Canada (Attorney General) v Kaler*, 2011 FCA 266 at paragraph 4.

<sup>19</sup> See *Howard v Canada (Attorney General)*, 2011 FCA 116 at paragraphs 7-8, and *Bradford v Canada Employment Insurance Commission*, 2012 FCA 120.

<sup>20</sup> See paragraph 16 of the General Division decision.

<sup>21</sup> See paragraph 20 of the General Division decision.

<sup>22</sup> See paragraph 24 of the General Division decision.

about her rights and obligations. Instead, she prioritized other things instead such as finding a job, and other personal matters.<sup>23</sup>

[25] Finally, the General Division found that the other legal issue related to hours and establishing a benefit period wasn't under appeal, but only the antedate issue was.<sup>24</sup>

**There is no arguable case that the General Division didn't follow a fair process**

[26] Procedural fairness is about the fairness of the process. The Claimant has a right to be heard and to know the case against her. She also has a right to be given an opportunity to respond and have her case considered fully and fairly by an impartial decision-maker.

[27] The Claimant hasn't pointed out how the General Division didn't follow a fair process, except to say that the decision was wrong and unfair. A disagreement with the General Division's decision isn't an error that I can consider.<sup>25</sup> And I can't give the Claimant permission to appeal based on fairness in general.

[28] The Appeal Division's mandate is limited, so it isn't an opportunity for a "redo."<sup>26</sup> I also can't conduct a new assessment or reweigh the evidence in order to come to a different conclusion.<sup>27</sup>

[29] There is no arguable case that the General Division didn't follow a fair process. I listened to the audio recording. The hearing was held in-person, the Claimant got an opportunity to testify and present her case.

[30] The General Division is the trier of fact and considered her reasons for applying late. It was free to conclude, based on the evidence before it, that she didn't have good cause for the entire period of delay.

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<sup>23</sup> See paragraphs 2, 23 and 26 of the General Division decision.

<sup>24</sup> See paragraphs 7-11 of the General Division decision.

<sup>25</sup> See *Quadir v Canada (Attorney General)*, 2018 FCA 21 at paragraph 7.

<sup>26</sup> See *Tracey v Canada (Attorney General)*, 2015 FC 1300 at paragraphs 20 and 33.

<sup>27</sup> See *Bergeron v Canada (Attorney General)*, 2016 FC 220 at paragraph 11.

[31] There are no other reasons for giving the Claimant permission to appeal. The General Division didn't ignore or misunderstand any relevant evidence.<sup>28</sup> It also correctly referred to and applied the law in its decision.<sup>29</sup>

## Conclusion

[32] The application to the Appeal Division wasn't late. Permission to appeal is refused. This means that the appeal will not proceed.

Solange Losier  
Member, Appeal Division

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<sup>28</sup> The Federal Court has suggested such a review in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

<sup>29</sup> See paragraphs 13-18 and 21 of the General Division decision.