



Citation: *JF v Canada Employment Insurance Commission*, 2026 SST 122

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: J. F.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated December 29, 2025
(GE-25-3174)

Tribunal member: Solange Losier

Decision date: February 23, 2026

File number: AD-26-49

Decision

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

Overview

[2] J. F. is the Claimant. He applied for Employment Insurance benefits on July 23, 2023. A benefit period was established effective, but he didn't submit any biweekly claim reports.¹

[3] On April 28, 2025, the Claimant asked the Commission to antedate his claim reports to July 15, 2023.²

[4] The Canada Employment Insurance Commission (Commission) refused to antedate his late claim reports to the earlier date.³

[5] The General Division dismissed his appeal. It decided that he hadn't shown good cause for the entire period of delay, so his late claim reports couldn't be antedated to July 15, 2023.⁴

[6] The Claimant is now asking for permission to appeal. He argues that the General Division didn't follow a fair process, that it made legal errors and made important factual errors.⁵

[7] I am denying permission to appeal because the Claimant's arguments don't show that he has an arguable case upon which the appeal might succeed. So, I can't give him permission to appeal.⁶

¹ The Claimant's benefit period became effective July 16, 2023, see page GD4-1.

² See request to antedate claim reports at page GD3-23.

³ See Commission's initial and reconsideration decision at pages GD3-29 and GD3-44.

⁴ See General Division decision at pages ADN1A-1 to ADN1A-7.

⁵ See Application to the Appeal Division at pages ADN1-1 to ADN1-4.

⁶ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

Issues

[8] Is there an arguable case that the General Division didn't follow a fair process?

[9] Is there an arguable case that the General Division made any legal errors or important factual errors when it determined the Claimant didn't have good cause for the delay in filing his claim reports?

Analysis

[10] 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.⁷

[11] I can only give the Claimant permission to appeal if there's an "arguable case" that the General Division made an error that gives his appeal a reasonable chance of success.⁸

[12] The Claimant in this case is arguing that the General Division didn't follow a fair process, that it made legal errors and made important factual errors, so that's what I will focus on.

[13] I've looked at the General Division's decision, the Claimant's Application to the Appeal Division, and all of the file documents before making my decision.

I am not giving the Claimant permission to appeal

The Claimant's arguments to the Appeal Division

[14] The Claimant argues that the General Division didn't follow a fair process, made legal errors and important factual errors.

⁷ See section 58(1) of the DESD Act.

⁸ See *Osaj v Canada (Attorney General)*, 2016 FC 11 at paragraph 12 and sections 56(1) and 58(2) of the DESD Act.

[15] First, he says that the General Division didn't inform him about concerns it had relating to the legal citations he provided. He identified paragraphs 10–15 of the General Division's decision.

[16] The Claimant indicated that there was some procedural history with his appeal because the Appeal Division had previously found procedural errors and returned it to the General Division for redetermination. In doing so, he says that the General Division was required to provide him a fair opportunity to respond to any concerns it had with the quality or sufficiency of his evidence.

[17] Second, he also says that the General Division erred in paragraph 28 of its decision because it doesn't "explain how a person without digital infrastructure could perform digital filing."

[18] To support his overall position, the Claimant cited the following cases: "*Baker v Canada*, [1999] 2 S.C.R. 817 and *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65."

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

[19] Natural justice is about the fairness of the process, and it includes certain procedural protections. Parties before the General Division have procedural protections such as the right to be heard, to know the case against them, to timely receipt of the notice of hearing and documents, and the right to an unbiased decision-maker are just some examples.

[20] For context, I need to provide a bit of procedural history about this file because the Claimant has raised it as part of his appeal.

[21] The Claimant initially appealed to the General Division. He asked for the hearing to be held in-writing, so it proceeded that way.⁹ His appeal was dismissed, so he appealed it to the Appeal Division.

⁹ See General Division decision (issued September 2, 2025), file number GE-25-2383.

[22] The Appeal Division found that the General Division hadn't followed a fair process because it hadn't informed the Claimant that his submissions were lacking in detail, and didn't warn him that it meant to draw an adverse inference from the missing details.¹⁰ As well, it didn't give him an opportunity to expand on how his mental health challenges interfered with his ability to submit his claim reports on time. Since there wasn't enough information for the Appeal Division to substitute with its own decision, it returned the appeal to the General Division for reconsideration.

[23] The file returned for reconsideration to the General Division. The Claimant asked for a written hearing and provided reasons for making his request.¹¹ The hearing proceeded in writing because the General Division found that it could conduct a fair hearing in this manner.¹²

[24] The General Division sent the parties a letter identifying that it might ask for more information about the appeal, or if no additional information was needed, it would decide based on the information on file.¹³

[25] Following that, the General Division then wrote to the Claimant and asked him questions about some of the evidence in the record and invited him to provide any additional information he wanted to.¹⁴

[26] The Claimant replied to the General Division's questions and cited several cases from the Federal Court of Appeal (FCA) to support that he had good cause to antedate his late claims.¹⁵

[27] The Claimant is now arguing that the General Division didn't follow a fair process because it ought to have given him a fair opportunity to address any concerns it had about the legal citations he provided.

¹⁰ See Appeal Division decision (issued November 12, 2025), file number AD-25-577 at paragraph 17.

¹¹ See page GD2-2.

¹² See paragraphs 7–8 of the General Division decision.

¹³ See pages RGD1-1 to RGD1-2.

¹⁴ See General Division's request for additional information at pages RGD2-1 to RGD2-4.

¹⁵ See Claimant's written response at pages RGD3-1 to RGD3-7.

[28] In its decision, the General Division found that the Claimant had cited several FCA decision and legal principles that either didn't exist or referred to another legal case which wasn't relevant to the legal issue under appeal. It concluded that since the cases didn't exist, it couldn't consider them.¹⁶

[29] I see no arguable case that the General Division didn't follow a fair process.¹⁷

[30] The *Social Security Tribunal Regulations* say that the Tribunal has to hold the hearing in the format requested by the Appellant (that was the Claimant in this case).¹⁸ There are some exceptions.¹⁹

[31] A hearing in writing means that the member will make the decision based on the written arguments and supporting documents that the parties send in. This means there is no opportunity to testify or speak directly to a member.

[32] The General Division explained in its decision that it was the Claimant's choice to proceed in writing and that it was satisfied the hearing would be "procedurally fair" to him.²⁰

[33] The General Division has to make sure that the appeal process is simple, quick and fair.²¹ It also has to actively adjudicate and give its decision as soon as possible after a hearing.²²

[34] Based on my review, the General Division didn't ignore what the Appeal Division had previously stated about giving the Claimant an opportunity to explain any contradictions or discrepancies in his evidence. That's exactly what it did. The General Division sought clarification of his evidence by asking him questions and invited him to provide any additional information.²³

¹⁶ See paragraphs 10–15 of the General Division decision.

¹⁷ See section 58(1)(a) of the DESD Act.

¹⁸ See section 2(1) of the *Social Security Tribunal Regulations*.

¹⁹ See section 2(2) and 2(3) of the SST Regulations.

²⁰ See paragraphs 7–8 of the General Division decision and page GD2-2.

²¹ See sections 6 and 8(1) of the *Social Security Tribunal Rules of Procedure* (SST Rules).

²² See sections 8, 17 and 59 of the SST Rules.

²³ See pages RGD2-1 to RGD2-4.

[35] The Claimant provided a detailed written reply with pinpoints to the evidence and to various case law that he argued supported his position.²⁴ The General Division considered his written reply before making its decision.

[36] It wasn't necessary for the General Division to give him a *further* opportunity to correct his submission. The case law the Claimant referred to simply didn't exist or referred to other cases that weren't relevant to the issue under appeal. The General Division was free to reject his submission and proceed with its decision.

[37] Parties bear the responsibility for the accuracy and veracity of the contents that they submit to the Tribunal. Unfortunately, in this case, the Claimant didn't take steps to ensure the case law he cited was accurate and true.

[38] There is no arguable case that the General Division didn't follow a fair process.²⁵ The General Division wrote to him asking questions and gave him an opportunity to clarify his evidence and to submit additional information. It proceeded in a manner that was simple, quick and fair and actively adjudicated the appeal. It wasn't required to give him a further opportunity to amend his legal submissions.

There is no arguable case that the General Division made any legal errors

[39] The General Division makes a legal error when it misinterprets the law, uses an incorrect legal test, or doesn't consider an argument it should have.

[40] After applying for benefits, you have to submit claims to get benefits and there are deadlines to do this.²⁶ A claim for benefits (other than an initial claim for benefits), made after the time prescribed for making the claim shall be regarded as having been made on an earlier day if the person shows that there was good cause for the delay throughout the entire period of delay.²⁷

²⁴ See pages RGD3-1 to RGD3-7.

²⁵ See section 58(1)(c) of the DESD Act.

²⁶ See section 26 of the *Employment Insurance Regulations* (EI Regulations).

²⁷ See section 10(5) of the EI Act and *Kamgar v Canada (Attorney General)*, 2013 FCA 157.

[41] To show good cause, a person has to show they had good cause throughout the entire period of the delay by showing that he acted as a reasonable and prudent person in the same circumstances would have acted to ensure compliance with his rights and obligations under the *Employment Insurance Act* (EI Act).²⁸ It is the Claimant that has the burden of proving he had good cause for the entire period of delay.

[42] I see no arguable case that it made any legal errors in its decision.²⁹ The General Division correctly identified the relevant legal provisions, the legal test and relied on applicable case law when it decided the antedate issue.³⁰ And it explained with reasons why it made the decision it did.

There is no arguable case that the General Division based its decision on any important factual errors

[43] The General Division makes an important factual error when it reaches its decision by ignoring or misunderstanding relevant evidence.³¹

[44] The Claimant argues that the General Division erred in paragraph 28 of its decision because it didn't "explain how a person without digital infrastructure could perform digital filing."

[45] In paragraph 28 of the General Division's decision, it wrote:

I note the Appellant mentions issues of homelessness and financial hardship, but I find these do not give him good cause either. I find that if he was able to file his application in a timely manner, and search for and secure employment approximately five weeks after losing his job despite his homelessness and financial hardship, he would also have been able to file his biweekly claims in a timely manner.

²⁸ See *Kamgar v Canada (Attorney General)*, 2013 FCA 157, *Canada (Attorney General) v Persiantsev*, 2010 FCA 101, *Canada (Attorney General) v Kokavec*, 2008 FCA 307 and *Paquette v Canada (Attorney General)*, 2006 FCA 309.

²⁹ See section 58(1)(b) of the DESD Act.

³⁰ See paragraphs 18–20 of the General Division decision.

³¹ This is a plain language wording of section 58(1)(c) of the DESD Act, which says this happens when the General Division has "based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it."

[46] The General Division acknowledged his circumstances but concluded that it didn't give him good cause to not file his claim reports in a timely manner. It concluded that he hadn't proven he had good cause for the entire period of delay in filing his claim reports and determined there were no exceptional circumstances to excuse his delay.³²

[47] I see no arguable case that the General Division based its decision on any important factual errors.³³ Its key findings on the antedate issue are consistent with the evidence. And I didn't find any evidence that the General Division might have ignored or misinterpreted.³⁴

[48] The General Division is the trier of fact and was free to weigh the evidence and conclude that a reasonable and prudent person in similar circumstances could have filed his claims. It gave weight to the fact that he was able to do other things such as apply for benefits and search for jobs during the relevant period. I can't reweigh the evidence in order to provide a different or more favourable outcome for the Claimant.

[49] There is no arguable case that the General Division based its decision on any important factual errors.³⁵ Finally, I see no other reasons for giving him permission to appeal.

Conclusion

[50] Permission to appeal is refused. This means that the appeal will not proceed. It has no reasonable chance of success.

Solange Losier
Member, Appeal Division

³² See paragraphs 21, 29 and 30 of the General Division decision.

³³ See section 58(1)(c) of the DESD Act.

³⁴ 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.

³⁵ See section 58(1)(c) of the DESD Act.