



Citation: *FH v Canada Employment Insurance Commission*, 2026 SST 140

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

# **Leave to Appeal Decision**

**Applicant:** F. H.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated January 6, 2026  
(GE-25-3481)

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**Tribunal member:** Elizabeth Usprich

**Decision date:** February 27, 2026

**File number:** AD-26-45

## Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

## Overview

[2] F. H. is the Applicant. He applied for Employment Insurance (EI) benefits on March 14, 2022.

[3] The Commission paid the Applicant weekly benefits. Later, the Commission received information from the Canada Border Services Agency that the Applicant was out of Canada from August 30, 2022 to October 16, 2022.

[4] The Applicant originally told the Canada Employment Insurance Commission (Commission) that he wasn't out of Canada in 2022. He claimed that was in 2023. At the General Division hearing, the Applicant didn't dispute he was outside of Canada from August 30, 2022 to October 16, 2022.<sup>1</sup>

[5] The Commission reconsidered the Applicant's claim for EI benefits. It decided the Applicant was disentitled to EI benefits from August 30, 2022, to October 16, 2022, because he was out of Canada. It decided the Applicant didn't show he was available for work while he was out of Canada. Finally, it decided the Applicant knowingly made false or misleading statements and it imposed a penalty.

[6] The Applicant appealed to the Social Security Tribunal (Tribunal) General Division. The General Division decided the Applicant was out of Canada from August 30, 2022, to October 16, 2022, and was disentitled to EI benefits during that time. It found the Applicant didn't prove he was available for work during the time he was out of Canada.

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<sup>1</sup> See the General Division decision at paragraphs 28 and 33.

[7] The General Division decided the Commission acted judicially when it reconsidered the Applicant's claim. But it found the Applicant didn't knowingly make false or misleading statements and therefore the penalty was cancelled.

[8] The Applicant has asked for permission to appeal to the Tribunal's Appeal Division. I am denying the Applicant's request for permission to appeal because there is no reasonable chance of success.

## Issues

[9] The issues in this case are:

- a) Is there an arguable case the General Division made an important error of fact when it decided the Applicant received EI benefits for a period when he was outside Canada and disentitled?
- b) Is there an arguable case that there is any other reviewable error?

## I am not giving the Applicant permission to appeal

[10] An appeal can only go ahead if the Appeal Division gives an applicant permission to appeal.<sup>2</sup> I have to be satisfied that the appeal has a reasonable chance of success.<sup>3</sup> There has to be an arguable ground upon which the appeal might succeed.<sup>4</sup>

[11] There are only certain grounds of appeal that the Appeal Division can consider.<sup>5</sup> Briefly, the Applicant has to show the General Division did one of the following:

- It acted unfairly in some way.
- It decided an issue it shouldn't have or didn't decide an issue it should have. This is also called an error of jurisdiction.

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<sup>2</sup> See section 56(1) of the Department of *Employment and Social Development Act* (DESD Act).

<sup>3</sup> See section 58(2) of the DESD Act.

<sup>4</sup> See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13; *O'Rourke v Canada (Attorney General)*, 2018 FC 498; *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.

<sup>5</sup> See section 58(1) of the DESD Act. The grounds listed are also known as errors.

- It made an error of law.
- It based its decision on an important error of fact.

[12] So, for the Applicant's appeal to go ahead, I have to find there is a reasonable chance of success on any of those grounds. The Applicant said the General Division made an important error of fact.

**There is no arguable case the General Division made an important error of fact when it decided the Applicant received EI benefits for a period when he was outside Canada and disentitled**

[13] An error of fact happens when the General Division makes its decision based on an erroneous (wrong) finding of fact that was "made in a perverse or capricious manner or without regard for the material before it".<sup>6</sup> This means the General Division had to ignore, misunderstand or overlook the evidence in some way.

[14] The General Division was looking at whether the Applicant was out of Canada. The Applicant acknowledged he was out of Canada from August 30, 2022, to October 16, 2022. He now says that he didn't receive any EI payments until after he was back in Canada. He seems to be saying that because he didn't receive any payments during that time, he wasn't paid for it. That isn't what the evidence shows.

[15] The Applicant seems to be saying that because he didn't receive EI payments while he was out of Canada, he didn't do anything wrong. The Commission's records show that no payments were processed until after the Applicant was back in Canada.<sup>7</sup> He was outside Canada from August 30, 2022, to October 16, 2022, and the payments weren't processed until October 19, 2022. So, the Applicant is correct he wouldn't have **received** payment while he was out of Canada.

[16] Unfortunately, the date he received the money isn't what we're examining. We're examining which weeks the payments relate to, not when they were issued. So,

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<sup>6</sup> See section 58(1)(c) of the DESD Act.

<sup>7</sup> See GD3-56 of the Commission's Reconsideration File.

although he didn't receive the funds until **after** he had returned to Canada, the EI weekly benefits related to the time when he was out of Canada.

[17] The General Division went on to look at whether there were any exceptions in the law that would have allowed the Applicant to receive benefits while he was out of Canada. The General Division concluded that no exceptions existed for the Applicant.<sup>8</sup>

[18] The Applicant seems to suggest that he didn't do anything wrong because he received the payments after he was back in Canada. But he did. He didn't report that he was outside Canada and he received benefits for that period. The Applicant is disentitled from receiving benefits during his time out of Canada. So, he has to pay that money back.

[19] The General Division agreed with the Commission that the Applicant should have a disentitlement imposed while he was out of Canada from August 30, 2022, to October 16, 2022. There is no arguable case the General Division made an important error of fact in this regard.

### **There is no arguable case there is any other reviewable error in the General Division decision**

[20] The Applicant didn't note anything in his appeal about the General Division's other findings. Specifically, that the General Division decided the Applicant wasn't available for work from August 30, 2022, to October 16, 2022.

[21] Because the Applicant is self-represented, I reviewed the file, listened to the hearing recording, and looked at the decision the Applicant is appealing. The General Division provided a fair process and decided the issues it had to decide. It identified and applied the correct legal tests. I haven't found any reviewable error that the General Division may have made.<sup>9</sup>

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<sup>8</sup> See the General Division decision at paragraphs 30 to 40.

<sup>9</sup> The Federal Court has said I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

## **Conclusion**

[22] Permission to appeal is refused. This means that the appeal will not proceed.

Elizabeth Usprich  
Member, Appeal Division