



[TRANSLATION]

Citation: *AC v Canada Employment Insurance Commission*, 2026 SST 165

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: A. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 5, 2026
(GE-25-3400)

Tribunal member: Pierre Lafontaine

Decision date: March 5, 2026

File number: AD-26-81

Decision

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

Overview

[2] The Applicant (Claimant) established a benefit period for Employment Insurance (EI) regular benefits. The Canada Border Services Agency (CBSA) told the Respondent (Commission) that the Claimant travelled outside Canada. He didn't report his trips outside Canada to the Commission.

[3] The Commission decided that the Claimant wasn't entitled to EI benefits while he was absent from Canada. As a result, the Commission disentitled him from receiving benefits for being absent from Canada and for not being available for work while he was absent. It also imposed a penalty on him for knowingly making false or misleading statements.

[4] The Claimant disagreed and appealed the reconsideration decision to the Tribunal's General Division.

[5] The General Division decided that the Claimant was disentitled from receiving benefits for being absent from Canada and for not being available for work while he was outside Canada. The General Division also maintained the Commission's reduced penalty of \$2,041.75

[6] The Claimant is now asking the Appeal Division for permission to appeal the General Division decision. He argues that the General Division decision should be reconsidered.

[7] On February 11, 2026, I asked the Claimant to explain in detail the reasons in support of his application for permission to appeal the General Division decision. He responded to my request in the time given.

[8] The Claimant argues that the General Division made a serious error of fact and/or an error of law in its analysis, and that these errors had a direct impact on the decision given.

[9] 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.

[10] 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

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

Analysis

[12] The law specifies the only grounds of appeal of a General Division decision.¹ 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.

[13] 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 his case; he has to instead establish that his appeal

¹ See section 58(1) of the *Department of Employment and Social Development Act*.

has a reasonable chance of success. This means that he has to show that there is arguably a reviewable error based on which the appeal might succeed.

[14] 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?

[15] The Claimant argues that the General Division misinterpreted the evidence he provided. He argues that some documents clearly show his situation, but that the decision either doesn't analyze them correctly or makes a finding that doesn't match the evidence presented.

[16] The Claimant also argues that the General Division misinterpreted the facts around his situation, especially about why he was separated from his job/EI.

[17] The Claimant argues that these errors had a direct impact on the decision the General Division gave.

Outside Canada

[18] The Claimant initially applied for EI benefits effective July 31, 2022.

[19] Based on information from the CBSA, the Claimant was outside Canada for the following periods:

1. August 17 to October 12, 2022
2. November 25 to December 18, 2022
3. January 4 to 12, 2023

[20] The Claimant recognized that he was outside Canada during the periods in question. He stated that he left Canada to visit his mother, who has cancer. He had to support his mother psychologically while she was sick.²

[21] The law says that **a claimant isn't entitled to receive benefits for any period during which the claimant isn't in Canada**, unless the claimant falls under one of the exceptions set out in the *Employment Insurance Regulations* (EI Regulations).³ One of the exceptions is, for a period of not more than seven consecutive days, to visit a member of the claimant's immediate family who is seriously ill or injured.⁴

[22] The General Division found that the Claimant's mother had been receiving treatment for breast cancer since 2018. But it noted that the evidence showed that her condition was well managed from July 2019 to November 2023. This finding from the General Division is supported by the medical report dated March 7, 2025, that Dr. N. Namou issued.⁵

[23] I see no reviewable error by the General Division in its finding that the evidence presented didn't show that the Claimant's mother was seriously ill during the periods in question. Those periods were from August 17 to October 12, 2022; November 25 to December 8, 2022; and January 4 to January 12, 2023.

[24] The medical evidence shows that the Claimant's mother unfortunately relapsed and had to receive palliative chemotherapy starting on December 16, 2023, after the periods in dispute.

[25] So, the Claimant could not benefit from the exception set out in the EI Regulations.

[26] This means that this ground of appeal has no reasonable chance of success.

² See GD3-51.

³ See section 37(b) of the *Employment Insurance Act* and section 55 of the *Employment Insurance Regulations* (EI Regulations).

⁴ See section 55(1)(d) of the EI Regulations.

⁵ See GD7-30.

Available for work

[27] The issue of whether you are considered available depends on whether one of the exceptions set out by Parliament in section 55 of the EI Regulations applies. If you are outside Canada, you have to be available and fall under one of the exceptions set out by Parliament. You have to meet both conditions.⁶

[28] Because the Claimant doesn't fall under any of the exceptions set out in the law, he isn't entitled to benefits for the periods he was outside Canada. That was enough to decide his appeal without deciding whether he was available for work while he was outside Canada.

[29] This ground of appeal has no reasonable chance of success.

Penalty

[30] The General Division decided that the Claimant made false statements, and that he made them knowingly. The Commission acted judicially by reducing the penalty amount to \$2,041.75.

[31] Parliament's only requirement for imposing a penalty is that of knowingly—that is, with full knowledge of the facts—making a false or misleading statement. So, the absence of intent to commit fraud isn't relevant.

[32] The burden of proof shifts as soon as a claimant wrongly answers a very simple question on a report. In this case, the question the Claimant had to answer was very simple: [translation] "Were you outside Canada between Monday and Friday during the period covered by this report?"

[33] So, it was up to the Claimant to explain why he gave the wrong answers. He had to prove that he didn't know his answers were wrong.

⁶ See *Canada (Attorney General) v Elyoumni*, 2013 FCA 151.

[34] After reviewing the evidence and considering the Claimant's testimony, the General Division decided that he knowingly made false or misleading statements by stating in his reports that he wasn't outside Canada. It gave little weight to his explanation that he reported being in Canada six times by mistake because he was in shock over his mother's health condition.

[35] I also note that the Claimant initially told the Commission that he didn't report his periods outside Canada because he needed money to pay his rent.⁷ This explanation clearly shows that he knew his answers were wrong.

[36] I see no reviewable error made by the General Division when it decided that a penalty should be imposed and that the Commission used its discretion judicially, considering all the circumstances relevant to the matter when setting the penalty amount.

[37] This means that this ground of appeal has no reasonable chance of success.

Conclusion

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

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

Pierre Lafontaine
Member, Appeal Division

⁷ See GD3-53.