



[TRANSLATION]

Citation: *BB v Canada Employment Insurance Commission*, 2026 SST 179

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: B. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 4, 2026
(GE-25-3602)

Tribunal member: Pierre Lafontaine

Decision date: March 10, 2026

File number: AD-26-155

Decision

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

Overview

[2] The Claimant applied for sickness benefits starting March 16, 2025. He then received the maximum 26 weeks of sickness benefits, until September 20, 2025. After that, he asked to have his claim converted to regular benefits.

[3] The Claimant provided a medical certificate dated October 24, 2025, stating that he was fit to work as of September 21, 2025, for seated work and for an undetermined period. The certificate also said that he was waiting for right hip surgery.

[4] The Respondent (Commission) decided that the Claimant was disentitled from receiving Employment Insurance (EI) regular benefits as of September 21, 2025, because he wasn't available for work. The Claimant disagreed with the reconsideration decision and appealed to the Tribunal's General Division.

[5] The General Division decided that the Claimant didn't show that he wanted to go back to work as soon as a suitable job was available and that he made enough efforts to find a suitable job. It also decided that he unduly limited his chances of going back to work. He wasn't available for work under the law.

[6] The Claimant is asking the Appeal Division for permission to appeal. He argues that it was a Commission agent who suggested to the Member of Parliament (MP)'s assistant that he ask for a conversion to regular benefits while he looked for a job suited to his condition. He says that he has always been available for work.

[7] I am not giving the Claimant permission to appeal.

Issue

[8] 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.

[9] 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 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.

[10] 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.

I am not giving the Claimant permission to appeal

[11] The Claimant argues that it was a Commission agent who suggested to the MP's assistant that he ask for a conversion to regular benefits while he looked for a job suited to his condition. He says that he has always been available for work.

[12] To be considered available for work, you have to show that you are capable of and available for work and unable to find a suitable job.¹

¹ See section 18(1)(a) of the *Employment Insurance Act*.

[13] Availability has to be determined by analyzing three factors:

- a) wanting to go back to work as soon as a suitable job is available
- b) making efforts to find a suitable job
- c) not setting personal conditions that might unduly limit the chances of going back to work²

[14] Availability is also determined for each working day in a benefit period for which you can prove that on that day you were capable of and available for work and unable to find suitable employment.³

[15] The General Division decided that the Claimant didn't show that he wanted to go back to work as soon as a suitable job was available and that he made enough efforts to find a suitable job.

[16] The General Division considered the fact that the Claimant contacted only four employers, three of them on the same day. It found that these efforts seemed more like trying to comply with the law to receive regular benefits than genuinely wanting to find a job.

[17] The General Division decided that the Claimant set personal conditions that might unduly limit his chances of going back to work. Since December 4, 2024, the Claimant has been off work and his condition hadn't changed. He was still waiting for surgery, and his condition limited him to a seated position at work. Even so, his efforts to find a job weren't focused on finding one suited to his physical condition.

[18] Based on the evidence presented, the General Division decided that the Claimant wasn't available for and capable of working each day under the law.

² See *Faucher v Canada (Employment and Immigration Commission)*, A-56-96.

³ See *Canada (Attorney General) v Cloutier*, 2005 FCA 73.

[19] It isn't enough to state that you are available for work. To receive EI benefits, you have to be **actively looking** for work. The Claimant didn't prove before the General Division that he did this.

[20] I have to reiterate that it isn't for the Appeal Division to reassess the evidence that was before the General Division. An appeal to the Appeal Division isn't an opportunity for the Claimant to argue his case again and hope for a different outcome.⁴

[21] I am of the view that the General Division correctly set out the applicable legal test for availability. It applied this test to the facts of this case and considered whether the Claimant was capable of and available for work.

[22] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

Conclusion

[23] Permission to appeal is refused. This means that the appeal won't go ahead.

Pierre Lafontaine
Member, Appeal Division

⁴ See *Page v Canada (Attorney General)*, 2023 FCA 169.