Citation: *FW v Canada Employment Insurance Commission*, 2026 SST 177

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	F. W.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated January 20, 2026 (GE-25-3022)

Tribunal member:	Pierre Lafontaine
Decision date:	March 10, 2026
File number:	AD-26-123

Decision

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

Overview

[2] The Applicant (Claimant) applied for Employment Insurance (EI) benefits on April 28, 2025. He asked that his application be antedated to July 21, 2024. The Respondent (Commission) refused to antedate his claim. It said he didn't have good cause for not applying for benefits sooner. The Claimant appealed the reconsideration decision to the General Division of the Tribunal.

[3] The General Division found that the Claimant did not act as a reasonable and prudent person would have acted in similar circumstances. He did not take reasonably prompt steps to understand his rights and obligations and did not show any exceptional circumstances to explain why he delayed so long. Therefore, his antedate request was refused.

[4] The Claimant now seeks leave to appeal of the General Division's decision to the Appeal Division. He submits that the General Division made an error of law in its interpretation of "*good cause*" because he did what a reasonable and prudent person would have done in his circumstances.

[5] I must decide whether the Claimant raised some reviewable error of the General Division upon which the appeal might succeed.

[6] I refuse leave to appeal because the Claimant's appeal has no reasonable chance of success.

Issue

[7] Does the Claimant raise some reviewable error of the General Division upon which the appeal might succeed?

Analysis

[8] The law specifies the only grounds of appeal of a General Division decision.[1] These reviewable errors are that:

1. The General Division hearing process was not fair in some way.

2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not 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 leave 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 must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove his case but must establish that the appeal has a reasonable chance of success based on a reviewable error. In other words, that there is arguably some reviewable error upon which the appeal might succeed.

[10] Therefore, before I can grant leave, I need to be satisfied that the reasons for appeal fall within any of the above-mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

Preliminary observations

[11] To decide the present application for leave to appeal, I listened to the recording of the General Division hearing held on December 16, 2025.

[1] Section 58(1) of the *Department of Employment and Social Development Act*.

I am not granting the Claimant leave (permission) to appeal

[12] The Claimant submits that the General Division made an error of law in its interpretation of "*good cause*" because he did what a reasonable and prudent person would have done in his circumstances.

[13] The Claimant submits he was not aware of the existence of the EI program and was not able to ask about his rights and obligations because he grew up in the Mennonite community in Mexico, had no government education, no experience with technology, and only spoke Low German. When he arrived in Canada, he started working in an isolated farm and his employer was silent on EI benefits. There was no way he could inquire about EI benefits.

[14] To establish good cause, a claimant must be able to show that they did what a reasonable person in their situation would have done to satisfy themselves as to their rights and obligations under the law.[2] Good cause must be shown throughout the entire period of the delay.

[15] As the General Division noted, a claimant is required to take "*reasonably prompt*" steps to determine whether they are entitled to EI benefits and find out their rights and obligations under the law. This obligation involves a duty of care that is both demanding and strict.[3]

[16] The General Division found that the Claimant did not prove good cause for the entire period because he did not act as a reasonable and prudent person would have done in similar circumstances. He made no effort to inform himself of his rights and obligations although he had lived and worked in Canada for two years before making his claim.

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[2] Section 10(4) of the *Employment Insurance Act*.
[3] See *Canada (Attorney General) v Dickson*, 2012 FCA 8; *Canada (Attorney General) v Kaler*, 2011 FCA 266; *Canada (Attorney General) v Innes*, 2010 CA 341; *Canada (Attorney General) v Trinh*, 2010 FCA 335; *Canada (Attorney General) v Carry*, 2005 FCA 367; *Canada (Attorney General) v Larouche* (1994), 176 NR 69 (FCA); *Canada (Attorney General) v Brace*, 2008 FCA 118; and *Canada (Attorney General) v Albrecht*, 1985 CanLII 5582 (FCA), [1985] 1 FC 710 (CA).

[17] The General Division found that simply being new to Canada, even when coupled with language and technology barriers, did not create an exemption to a claimant's duty to inquire about their rights and obligation to apply in a timely manner.

[18] During an interview by the Commission, the Claimant said that he had no idea of the existence of (EI) benefits. He found out from working colleagues at a new job and immediately asked the person who did his taxes and spoke his language to help him apply for EI benefits.[4]

[19] The evidence shows that the Claimant had been living in Canada for two years when he lost his job in July 2024. After his work at the farm, he was able to search for and find jobs. He could have contacted the person who spoke his language and took care of all his paperwork and taxes to inquire about possible financial assistance. Although his English was limited, he had access to telephones and government agencies. He was not severely hindered from finding out and understanding his rights and obligations regarding EI benefits after he lost his job in July 2024.[5]

[20] It is well established that good faith and ignorance of the law do not in themselves constitute a valid reason to justify the delay in filing a request for EI benefits.[6] The Claimant had a duty to act promptly to inquire with the Commission about his eligibility to EI benefits and not wait nine (9) months after the end of his employment to apply.

[21] I see no reviewable error made by the General Division on the issue of antedate. The decision is based on the evidence presented before it and contains no error in law.

[22] The Claimant submitted two CUBs in support of his application for leave to appeal. Unfortunately, for the Claimant, they are of no help to him. The facts in these cases differ significantly from those of the present case.

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[4] GD3-16.
[5] See *De Jesus v Canada (Attorney General)*, 2013 FCA 264.
[6] *Albrecht*, A-172-85, *Larouche*, A-644-93, *Carry*, 2005 FCA 367, *Somwaru*, 2010 FCA 336, *Kaler*, 2011 FCA 266, *Mauchel*, 2012 FCA 202.

[23] In CUB 72513, the claimant showed good cause because he attempted to file his claimant's EI report but encountered problems with the *Teledec* system. In CUB 75630, the claimant showed good cause, as a third party had made a mistake in filing his application for EI benefits and he wanted an antedate to correct it. In the present case, the Claimant waited nine (9) months after losing his job to apply for EI benefits.

[24] I must reiterate that it is not permissible for the Appellate Division to draw a different conclusion from that of the General Division based on the same facts given the extent of its jurisdiction and the absence of an error of law, a breach of a principle of natural justice or an arbitrary conclusion of fact.[7]

[25] After reviewing the appeal file and the General Division's decision as well as considering the Claimant's arguments in support of his request for leave to appeal, I have no choice but to find that the appeal has no reasonable chance of success. The Claimant has not set out a reason, which falls into the above-enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

Conclusion

[26] Leave to appeal is refused. This means the appeal will not proceed.

Pierre Lafontaine
Member, Appeal Division

[7] *Quadir c Canada (Attorney General)*, 2018 CAF 21.