



Citation: *MW v Canada Employment Insurance Commission*, 2026 SST 186

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant: M. W.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated January 26, 2026
(GE-25-3507)

Tribunal member: Stephen Bergen

Decision date: March 10, 2026

File number: AD-26-79

Decision

[1] I am refusing leave (permission) to appeal. The appeal will not proceed.

Overview

[2] M. W. is the Applicant. I will call him the Claimant because this application is about his claim for Employment Insurance (EI) benefits. The Respondent is the Canada Employment Insurance Commission, which I will call the Commission.

[3] The Claimant received EI benefits in 2023. He worked for two employers and he had earnings in August and September at the same time he was receiving benefits. However, he did not report his work or earnings to the Commission on his claim reports. On January 13, 2025, the Commission decided that he made false statements in 2023 and that he had been overpaid. It assessed a penalty and imposed a Notice of Violation.

[4] The Claimant asked the Commission to reconsider, saying only that he was disputing the balance owing. He attached a statement of account, which showing that he had a balance owing of \$6,524.61.

[5] According to the Commission, the attached Statement of Account included the overpayment noted in the January 13, 2025, letter and the associated penalty for false statements, as well as the overpayment and penalties from the benefit periods established in two prior claims plus interest. The Commission had been unable to reach the Claimant to clarify what he wanted it to reconsider so it deemed him to be requesting a reconsideration of its decision that he made false statements and of its Notice of Violation.¹

[6] The Claimant appealed to the General Division, saying only that he did not owe \$6500.00.

[7] The General Division considered the Claimant's appeal of a number of issues in one hearing but issued separate decisions for the different issues. This application

¹ See GD3-77.

relates only to his appeal of the General Division's decision in GE-25-3507, which was the only appeal received by the Appeal Division. In this appeal, the General Division considered only whether the Claimant had made false statements, and whether the Commission acted judicially in deciding on the notice of violation, as well as the penalty. The question of the Claimant's earnings while on benefits and his overpayment were not issues considered in this decision.² Nor was the issue of whether he had just cause for leaving his employment considered here.

Issues

[8] Is there an arguable case that the General Division made an error that I can consider?

I am not giving the Claimant permission to appeal

General Principles that apply to leave to appeal applications

[9] For the Claimant's application for leave to appeal to succeed, his reasons for appealing would have to fit within the "grounds of appeal." The grounds of appeal identify the kinds of errors that I can consider.

[10] I may consider only the following errors:

- a) The General Division hearing process was not fair in some way.
- b) 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 (error of jurisdiction).
- c) The General Division based its decision on an important error of fact.
- d) The General Division made an error of law when making its decision.³

[11] To grant this application for leave and permit the appeal process to move forward, I must find that there is a reasonable chance of success on one or more

² The Claimant's earnings, allocation, and the repayment of the overpayment were considered in GE-25-3509. Whether he had just cause for leaving each of his two employers is considered in GE-25-3506, and GE-25-3508, respectively.

³ This is a plain-language version of the grounds of appeal. The full text is in section 58(1) of the *Department of Employment and Social Development Act* (DESDA).

grounds of appeal. Other court decisions have equated a reasonable chance of success to an “arguable case.”⁴

[12] In his application to the Appeal Division, the Claimant selected three grounds of appeal. He believed that the General Division made errors of jurisdiction, law, and fact.

[13] The Claimant did not explain why he believed the General Division had made any of these errors. I wrote to the Claimant on February 10, 2026, to explain the errors that I can consider. I asked him why he believed the General Division had made those errors.

[14] The Claimant responded on February 26, 2026. He sent me a copy of a letter he wrote to the Department of Justice saying that he intended to pursue legal action against the Government of Canada.

Error of Jurisdiction

[15] There is no arguable case that the General Division made an error of jurisdiction.

[16] The only thing the Claimant provided the Appeal Division in connection with this appeal is a letter that he apparently sent to the Department of Justice. The issue of concern to the Claimant in the letter was unrelated to his Employment Insurance claim. It did not suggest that the General Division failed to consider an issue that was properly before it.

[17] The Claimant did not otherwise identify any issue that the General Division should have considered, and he did not suggest that it considered something it should not have.

[18] I note that one of the issues considered by the General Division was the penalty that flowed from the misrepresentation findings. The Commission’s notes specifically state that it was deeming the Claimant to have requested a reconsideration of the false

⁴ See *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41; and *Ingram v Canada (Attorney General)*, 2017 FC 259.

statements and the Notice of Violation.⁵ Likewise, its written reconsideration decision considered the false statements and violation but omitted to state that it had reconsidered his penalty.

[19] However, the Commission's discussion of the Claimant's reconsideration request acknowledged that the Claimant asked it to reconsider what he owed. The deeming was necessary because the Claimant's request had not specified what he wanted reconsidered. He had only expressed a concern with repaying his account balance. And the Commission had been unable to discuss the Claimant's request with him.

[20] It would have made little sense for the Commission to interpret the Claimant's dissatisfaction with how much he owed as a request that includes the non-monetary Notice of Violation from his false statements, but not to consider the monetary penalty flowing from the same statements.

[21] The General Division typically takes a broad view of its jurisdiction when interpreting the meaning of a reconsideration. Given the general nature of both the Claimant's request for reconsideration and his appeal, it was not an error for the General Division to take jurisdiction over the penalty issue.

Error of Law

[22] There is no arguable case that the General Division made an error of law.

[23] The Claimant did not identify an error of law, and no error of law is apparent on the face of the record.

Error of Fact

[24] There is no arguable case that the General Division made an important error of fact.

[25] According to guidance from the Federal Court, the Appeal Division should look beyond the grounds of appeal identified by unrepresented applicants, at the leave to

⁵ In the General Division decision, GE-25-2509.

appeal stage.⁶ Even though the Claimant did not point to any error of fact, I reviewed the record to see if the General Division may have ignored or misunderstood evidence that could have been relevant and important to its decision. I did not discover an arguable case that it did so.

[26] The Claimant's appeal has no reasonable chance of success.

Conclusion

[27] I am refusing permission to appeal. This means that the appeal will not proceed.

Stephen Bergen
Member, Appeal Division

⁶ See *Karadeolian v. Canada (Attorney General)*, 2016 FC 615.