



Citation: *KJ v Canada Employment Insurance Commission*, 2026 SST 219

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant: K. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 10, 2026
(GE-26-424)

Tribunal member: Glenn Betteridge

Decision date: March 20, 2026

File number: AD-26-181

Decision

[1] Leave (permission) to appeal is denied. This means K. J.'s appeal won't go forward.¹

Overview

[2] K. J. is the Claimant in this case. He has asked for permission to appeal a General Division decision. I will give him permission if he has a reasonable chance of winning the appeal.

[3] The General Division decided it could not backdate the Claimant's application to renew his EI claim for regular benefits. Section 10(5) of the *Employment Insurance Act* (EI Act) sets out the good cause test to get a claim backdated. The General Division decided he didn't show good cause. So it dismissed his appeal.

[4] In his application to appeal (application), the Claimant makes the same arguments he made to the General Division.

[5] Unfortunately for the Claimant, he doesn't have a reasonable chance of winning his appeal. So I can't give him permission to appeal.

Issue

[6] Does the Claimant's appeal have a reasonable chance of success?

I'm not giving the Claimant permission to appeal

[7] Before making my decision, I read the Claimant's application to appeal.² I read the General Division decision. And I reviewed the documents in the General Division file.³

¹ The Appeal Division process has two steps. (1) A person applies for permission to appeal a General Division decision. If they don't get permission, their appeal ends. (2) If they get permission, then they argue their appeal in writing or at a hearing.

² See AD1.

³ See GD2, GD3, and GD4.

[8] For the reasons that follow, I can't give the Claimant permission to appeal.

The permission to appeal test screens out appeals without a reasonable chance of success⁴

[9] The Claimant has applied for permission to appeal. I give permission when there's an arguable case the General Division made an error that gives a claimant a reasonable chance of winning their appeal.⁵

[10] The law lets me consider four types of errors—the General Division used an unfair procedure, or made a jurisdictional error, a legal error, or an important factual error.⁶

The Claimant's appeal doesn't have a reasonable chance of success

[11] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.⁷

[12] I understand the Claimant disagrees with the General Division decision and the outcome for him. But when I look at his General Division appeal form, the General Division decision, and his application to appeal, his reasons show me he's trying to reargue his appeal. The Appeal Division application process isn't a do-over. His reasons need to show an arguable case the General Division made an error. They don't show that.

[13] The Claimant is representing himself. So when I applied the permission to appeal test I looked beyond his reasons.⁸ I looked for an arguable case the General Division made a legal error or an important factual error.

⁴ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act); *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

⁵ See *Osaj v Canada (Attorney General)*, 2016 FC 11.

⁶ See section 58(1) of the DESD Act.

⁷ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

⁸ The Appeal Division should not apply the leave to appeal test mechanically and in some circumstances should review the General Division file. See *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; *Joseph v Canada (Attorney General)*, 2017 FC 391.

[14] The General Division explained why it didn't have the authority to deal with the Commission's failure to meet the 30 day timeline (paragraphs 15, 18). There isn't an arguable case the General Division made a legal error in this part of its decision.

[15] The General Division explained why it had to decide whether the claimant met the EI Act good cause test to get an antedate—not whether he acted reasonably on a *Vavilov* standard (paragraphs 15, 19). There isn't an arguable case the General Division made a legal error in this part of its decision.

[16] And there isn't an arguable case the General Division made a legal error with the EIA section 10(4) test for backdating a claim (paragraphs 10 to 13, 20 to 23).

[17] Finally, I reviewed the documents the General Division had. I didn't find an arguable case the General Division ignored or misunderstood relevant evidence in its decision. Or an arguable case there's relevant evidence that goes against its decision.

Conclusion

[18] The Claimant's appeal doesn't have a reasonable chance of success. This means his appeal can't go forward.

Glenn Betteridge
Member, Appeal Division