



Citation: *SA v Canada Employment Insurance Commission*, 2026 SST 209

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant: S. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 9, 2026
(GE-26-508)

Tribunal member: Pierre Lafontaine

Decision date: March 18, 2026

File number: AD-26-178

Decision

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

Overview

[2] The Respondent (Commission) decided that the Applicant (Claimant) was disentitled from receiving Employment Insurance (EI) benefits from December 27, 2021, until November 6, 2022.

[3] Upon reconsideration, the Commission changed its initial decision and disentitled the Claimant from January 4, 2022, until November 6, 2022. It allowed seven (7) days to visit a close family member who is seriously ill or injured. The Claimant appealed the reconsideration decision to the General Division.

[4] The General Division found that the Commission had 72 months to review the claim. It found that the Claimant was outside Canada from December 27, 2021, until November 6, 2022. The General Division concluded that the Claimant met the exception that allows for an absence from Canada of up to seven days to visit a close family member who is seriously ill or injured. The exemption applied from December 27, 2021, to January 2, 2022. It concluded that the Commission acted judicially when it decided to review the claim.

[5] The Claimant now seeks leave to appeal of the General Division's decision to the Appeal Division. She submits that she never received the questionnaire from the Commission. Had she received it, she would have answered right away. The Claimant submits that there is no evidence that she knowingly authorized or supervised the submission of the EI reports. The Claimant submits that the General Division made an error by allowing the Commission 72 months to review her claim.

[6] I must decide whether there is some reviewable error of the General Division upon which the appeal might succeed.

[7] I am refusing leave to appeal because the Claimant's appeal has no reasonable chance of success.

Issue

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

Analysis

[9] 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.

[10] 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 her 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.

[11] 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.

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

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

[12] The Claimant submits that she never received the questionnaire from the Commission. Had she received it, she would have answered right away. The Claimant submits that there is no evidence that she knowingly authorized or supervised the submission of the EI reports. She submits that the General Division made an error by allowing the Commission 72 months to review her claim.

Outside of Canada

[13] There is no dispute that the Claimant was outside of Canada from December 26, 2021, until November 6, 2022.

[14] When determining eligibility for EI benefits while a claimant is outside Canada, the question of whether they knowingly made a false statement is not relevant.

[15] The law stipulates without ambiguity that a claimant is **not entitled** to receive EI benefits for any period during which the claimant is outside of Canada², unless the claimant falls under one of the exceptions set out in in the regulations.³ In other words, Parliament has decided that if you are outside of Canada, you cannot receive EI benefits unless you meet one of the exceptions.

[16] The Claimant met the exception that allows for an absence from Canada of up to seven (7) days to visit a close family member who is seriously ill or injured. The exemption therefore applied from December 27, 2021, to January 2, 2022.

[17] Therefore, I see no reviewable error made by the General Division when it concluded that the Claimant is not entitled to benefits for the remainder of the period during which she was not in Canada, from January 4, 2022, to November 6, 2022, as the evidence did not demonstrate that other exceptions applied.

² Section 37(b) of the *Employment Insurance Act*.

³ Section 55 of the *Employment Insurance Regulations*.

[18] I must reiterate that the Federal Court of Appeal has clearly established that any sum received to which a claimant is not entitled must be repaid.⁴

Review of the claim

[19] The Claimant submits that there is no evidence that she knowingly authorized or supervised the submission of the EI reports. She submits that the General Division made an error by allowing the Commission 72 months to review her claim.

[20] To benefit from the 72-month period to review a claim, the Commission does not have to establish that a claimant knowingly made false or misleading statements.⁵ It only has to demonstrate that it could reasonably conclude that a false or misleading statement had been made in relation to the claim.⁶

[21] In the Claimant's reports, it was never reported by her friend that she was outside of Canada. The Commission later obtained information from the CBSA indicating that the Claimant had travelled outside of Canada from December 26, 2021, to November 6, 2022.

[22] Given the contradictions between the claim reports and the CBSA information, the Commission could reasonably conclude that false or misleading statements were made in relation to the claim and thus benefit from 72 months to re-examine the claim for benefits.

⁴ *Lanuzo v Canada (Attorney General)*, 2005 FCA 324.

⁵ This must be established only when a penalty is imposed by the Commission.

⁶ See section 52(5) of the *Employment Insurance Act*, *Langelier* (A-140-01), *Lemay* (A-172-01), and *Dussault* (A-646-02).

Conclusion

[23] After reviewing the appeal docket and the General Division's decision as well as considering the Claimant's arguments in support of her request for leave to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

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

Pierre Lafontaine
Member, Appeal Division