



Citation: *RA v Canada Employment Insurance Commission*, 2026 SST 196

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant: R. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated December 24, 2025
(GE-25-3317)

Tribunal member: Elizabeth Usprich

Decision date: March 11, 2026

File number: AD-26-50

Decision

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

Overview

[2] R. A. is the Applicant. She spoke to the Canada Employment Insurance Commission (Commission) on September 10, 2025. She asked to start a claim for Employment Insurance (EI) family caregiver benefits for 2022 and 2023.

[3] The Commission said it couldn't start a claim for EI family caregiver benefits on January 29, 2023. It said the Applicant was late applying for benefits and didn't have good cause for her delay in applying for EI benefits. The Applicant asked the Commission to reconsider, but it didn't change its position.

[4] The Applicant applied to the Social Security Tribunal (Tribunal) General Division. She said no one told her about these benefits. She was on an approved unpaid caregiver leave from her work. She felt her situation should be considered.

[5] The General Division agreed with the Commission. It found the Commission had made no decision about benefits for 2022. So, the General Division said it didn't have authority to make a decision about that. For the 2023 claim, the General Division found the Applicant didn't have good cause for the length of her delay. It also decided the Applicant didn't have any exceptional circumstances that explain the delay.

[6] The Applicant has now asked for permission to appeal to the Tribunal's Appeal Division. I am denying the Applicant's request for permission to appeal because there is no reasonable chance of success.

Preliminary matters

– **The Applicant didn't specify any error the General Division made**

[7] The Applicant used the wrong form when she appealed to the Appeal Division. The form used didn't specify any error (mistake) that the General Division made. I asked

the Applicant to send in information about why she was appealing the General Division decision.

[8] On January 29, 2026, I wrote the Applicant and said, “Explain **in detail** why you are appealing the decision of the General Division. At the Appeal Division, we’re looking at whether the **General Division** made an error in its process or decision. Please focus on what the General Division did or didn’t do. Please specify what error you think the General Division made and why.”¹ The Applicant sent in responses which have been considered in this decision.

Issues

[9] The issues in this case are:

- a) Is there an arguable case the General Division didn’t provide a fair process?
- b) Is there an arguable case the General Division made an error of jurisdiction?
- c) Is there an arguable case the General Division made an error of law?
- d) Is there an arguable case the General Division made an important error of fact?

I am not giving the Applicant permission to appeal

[10] An appeal can only go ahead if the Appeal Division gives an applicant permission to appeal.² I have to be satisfied that the appeal has a reasonable chance of success.³ There has to be an arguable ground upon which the appeal might succeed.⁴

¹ Under section 4 of the Notice of Appeal form to the Appeal Division, it explains that permission to appeal must first be granted. It says there must be an arguable case the General Division made an error and lists the errors that can be considered.

² See section 56(1) of the Department of *Employment and Social Development Act* (DESD Act).

³ See section 58(2) of the DESD Act.

⁴ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13; *O’Rourke v Canada (Attorney General)*, 2018 FC 498; *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.

[11] There are only certain grounds of appeal that the Appeal Division can consider.⁵ Briefly, the Applicant has to show the General Division did one of the following:

- It acted unfairly in some way.
- It decided an issue it shouldn't have, or didn't decide an issue it should have. This is also called an error of jurisdiction.
- It made an error of law.
- It based its decision on an important error of fact.

[12] So, for the Applicant's appeal to go ahead, I have to find there is a reasonable chance of success on any of those grounds. The Applicant says the General Division made each of the above errors.

[13] An appeal at the Appeal Division is different than with the General Division. It isn't simply a re-evaluation of the claimant's case. Instead, a party must show there is an arguable case the General Division made an error. The Applicant says she wasn't aware of the benefit. She feels her lack of knowledge about this specific benefit should entitle her to receive the benefits she's seeking.

There is no arguable case the General Division didn't follow a fair process

[14] A fair process is also called natural justice. These principles include making sure parties have a fair opportunity to present their case and have it decided by an impartial decision-maker. I can only look at an error that the **General Division** did, or didn't do.

⁵ See section 58(1) of the DESD Act. The grounds listed are also known as errors.

[15] The Applicant said, “There was no document produced in that time that I need to look into”.⁶ I didn’t understand what the Applicant meant by this so I asked for further information.⁷ On February 6, 2026, the Applicant explained her position.⁸

[16] She said, the General Division didn’t follow a fair process because it applied what a usual person would do. She said her situation is completely different. Unfortunately, the Applicant seems to be confusing the application of the legal test with a fair opportunity to present her case.

[17] I have reviewed the record. Nothing shows the Applicant lacked a full and fair opportunity to present her case. She hasn’t said she was denied that opportunity. Instead, she argues it was unfair for the General Division to compare her to a “usual person”. I will deal with this allegation more below. But there is no arguable case the General Division didn’t follow a fair process.

There is no arguable case the General Division made an error of jurisdiction

[18] The Applicant is saying the General Division made a mistake because it looked at what a usual person would do. This is also not a jurisdictional error. Jurisdictional errors only happen if the General Division made decisions it didn’t have the authority to make or didn’t make a decision it had the authority to make.

[19] The General Division decided it had no authority to make a decision about the Applicant’s desire for benefits in February 2022.⁹ It said the Commission hadn’t made an initial decision or a reconsideration decision on that issue. It also explained the steps the Applicant needs to take to have this issue considered by the Commission.¹⁰

[20] There is no arguable case the General Division made an error in this regard. As the General Division correctly noted, its authority comes from the Commission’s

⁶ See AD1B-1 of the Applicant’s submission to the Appeal Division.

⁷ See AD2-1 the clarification letter sent to the Applicant on February 5, 2026.

⁸ See AD3-1 the Applicant’s submission to the Appeal Division.

⁹ See the General Division decision at paragraph 25.

¹⁰ See the General Division decision at paragraph 26.

reconsideration decision.¹¹ So if the Commission didn't deal with an issue, the General Division doesn't have the authority to consider it either.

[21] The General Division considered and made decisions on all the issues it had the authority to examine. There is no arguable case the General Division made an error of jurisdiction.

There is no arguable case the General Division made an error of law

[22] Some examples of an error of law are: if the General Division doesn't apply the correct legal test; if the General Division uses the correct legal test but doesn't apply it correctly.

[23] The Applicant says the General Division didn't consider her situation. She says if she had known about caregiver benefits she would have applied on time. She says she's fighting for a benefit she didn't know existed. So, she feels the General Division didn't consider her, as an individual, in her situation. She feels the General Division should look at a different section of the law where an individual situation can be considered.

[24] The General Division explained the legal test it had to apply.¹² Specifically, it said the Applicant had to show "she acted reasonably and carefully just as anyone else would have if they were in a similar situation."¹³ This means the General Division was looking at what someone in a similar situation would do.

[25] This is an objective standard. It doesn't depend on the Applicant's personal perspective. It determines what a reasonable person would have done in **that** situation. This is the analysis the General Division carried out.

[26] The General Division also explained a claimant must take reasonably prompt steps to understand their obligations and their entitlement to benefits.¹⁴ If someone

¹¹ See the General Division decision at paragraph 20.

¹² See the General Division decision at paragraphs 28 to 33.

¹³ See the General Division decision at paragraph 30.

¹⁴ See the General Division decision at paragraph 32.

doesn't take reasonably prompt steps, then they must show there were exceptional circumstances that explain why.

[27] The Applicant argues the General Division should have looked at her situation. She says she applied for caregiver leave at her work and it was approved without pay. She says she would have applied for the EI caregiver benefit if she had known.¹⁵

[28] The General Division considered all of that.¹⁶ The General Division explained why it felt the Applicant didn't act as a reasonable and prudent person would have **in her situation**.¹⁷ The General Division understood the Applicant's particular situation. It found the Applicant didn't show she had good cause for her delay. It also found there were no exceptional circumstances.

[29] The Federal Court of Appeal says we can presume the General Division has considered and weighed all the evidence before it.¹⁸ It isn't the role of the Appeal Division to reweigh evidence. The General Division stated the correct test. It understood the Applicant's circumstances. It applied the law to the facts of the case.

[30] The *Employment Insurance Act* doesn't have a provision that allows what the Applicant is asking. The law requires to have an objective test applied. That test looks at what a reasonable person **in the same situation** would have done. There isn't a section of the law that would allow the Tribunal to override what the law says is required.

[31] The Appeal Division doesn't simply revisit the arguments made before the General Division. Without an error, I can't reassess or reweigh the evidence the General Division already considered. There is no arguable case the General Division made an error of law.

¹⁵ See AD1B-1 of the Applicant's submissions to the Appeal Division.

¹⁶ See the General Division decision at paragraph 34.

¹⁷ See the General Division decision at paragraphs 37, 39, 41, 42, 47, 48, 49, 51 and 54.

¹⁸ See *Simpson v Canada (Attorney General)*, 2012 FCA 82 at paragraph 10.

There is no arguable case the General Division made an important error of fact

[32] The General Division doesn't have to mention every piece of evidence.¹⁹ The law is clear that I can intervene only if the General Division, "based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it."²⁰

[33] The Applicant hasn't taken issue with the timeframe the General Division used to determine the period of the antedate. She says her Record of Employment (ROE) says she was on a caregiver leave.²¹ She wondered if the General Division looked at this. If not, she feels it's an important error of fact.

[34] The Applicant's ROE isn't at issue here. The General Division had to decide whether to antedate the Applicant's claim for EI benefits. The reason for separation on the ROE didn't matter. The Applicant also mentioned this in her reconsideration request to the Commission.²² So, this argument was before the General Division.

[35] In any event, the actual ROE wouldn't have helped. The main issue was whether the Applicant had good cause for the entire length of her delay. Her reason for applying, or the ROE reason code, doesn't help answer whether she had good cause for her delay. This isn't an important error of fact because the General Division's decision didn't depend on the ROE. There is no arguable case the General Division made an important error of fact.

– There are no additional errors in the General Division decision

[36] Because the Applicant is self-represented, I reviewed the file, listened to the hearing recording, and looked at the decision the Applicant is appealing. I haven't found any reviewable error that the General Division may have made.²³

¹⁹ See *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319 at paragraph 39.

²⁰ See section 58(1)(c) of the DESD Act.

²¹ See AD1B-1 of the Applicant's submissions to the Appeal Division.

²² See GD3-18 of the Commission's Reconsideration File.

²³ The Federal Court has said I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[37] The General Division provided the Applicant with a fair process. It applied the correct legal test. It made the decisions it had to decide. There is no arguable case the General Division made an important error of fact. This means there is no arguable case the General Division made a reviewable error that would allow the Appeal Division to step in.

Conclusion

[38] Permission to appeal is refused. This means that the appeal will not proceed.

Elizabeth Usprich
Member, Appeal Division