



Citation: *AH v Canada Employment Insurance Commission*, 2026 SST 225

**Social Security Tribunal of Canada  
Appeal Division**

**Leave to Appeal Decision**

**Applicant:** A. H.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated February 11, 2026  
(GE-26-72)

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**Tribunal member:** Glenn Betteridge

**Decision date:** March 23, 2026

**File number:** AD-26-172

## Decision

[1] Leave (permission) to appeal the General Division decision is denied.

[2] This means A. H.'s appeal won't go forward.<sup>1</sup>

## Overview

[3] A. H. is the Claimant in this case. He is asking for permission to appeal a General Division decision. I will give him permission if he has a reasonable chance of winning his appeal.

[4] The General Division decided the Commission used its power properly, fairly, and in time when it reconsidered his claim.<sup>2</sup> It also decided he didn't report some of his employment income during his EI claim. Finally, it decided the Commission correctly determined the amount of unreported income, and correctly allocated it to weeks in his claim.<sup>3</sup> So, the General Division dismissed his appeal.

[5] This left him with an overpayment and debt.<sup>4</sup>

[6] The Claimant disagrees with the General Division decision. On his application to appeal, he checked the box that says the General Division made an important factual error.

[7] But he hasn't given any reasons or an explanation to support that error. And I didn't find an arguable case the General Division made that error. This means he doesn't have a reasonable chance of winning his appeal. And his appeal can't go forward.

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<sup>1</sup> 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, they get to argue their appeal in writing or at a hearing.

<sup>2</sup> See section 52(5) of the *Employment Insurance Act* (EI Act), and *Canada (Attorney General) v Purcell*, A-694-94 (FCA).

<sup>3</sup> See sections 35 and 36(4) of the *Employment Insurance Regulations*.

<sup>4</sup> See sections 19(2), 52(2) and (3), and 43 of the EI Act.

## Issue

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

## I'm not giving the Claimant permission to appeal

[9] 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 success<sup>5</sup>**

[10] 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 person a reasonable chance of winning their appeal.<sup>6</sup>

[11] The law says I can 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.<sup>7</sup>

### **No arguable case the General Division made an important factual error**

[12] The General Division makes an important factual error when it bases its decision on a factual finding it reached by ignoring or misunderstanding relevant evidence.<sup>8</sup> Relevant means evidence that fits into the legal test.

[13] The Claimant checked the important factual error box on his application form.<sup>9</sup> But he didn't explain or give details or examples of how the General Division made this

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<sup>5</sup> 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.

<sup>6</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 11.

<sup>7</sup> See section 58(1) of the DESD Act.

<sup>8</sup> Section 58(1)(c) of the DESD Act says it is a ground of appeal where the General Division based its decision on an erroneous finding of fact it made in a perverse or capricious manner or without regard for the material before it. I have described this ground of appeal using plain language, based on the words in the Act and the cases that have interpreted the Act.

<sup>9</sup> See AD1-3.

error. I wrote to him and gave him another chance to explain. He didn't respond by the deadline I set.

[14] When a person doesn't explain or give details about an alleged error, their argument about that error has no reasonable chance of success.<sup>10</sup> So, the Claimant's important factual error argument has no reasonable chance of success.

[15] Before making my decision, I reviewed the documents in the General Division file.<sup>11</sup> Then I compared the evidence from the documents to the General Division's factual findings and the evidence it used to reach those findings.<sup>12</sup> Unfortunately for the Claimant, I didn't find an arguable case the General Division ignored or misunderstood relevant evidence. In other words, I didn't find an arguable case the General Division made an important factual error.

## Conclusion

[16] 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

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<sup>10</sup> See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

<sup>11</sup> See GD2, GD3, and GD4.

<sup>12</sup> The Appeal Division should not apply the leave to appeal test mechanistically 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.