



Citation: *DM v Canada Employment Insurance Commission*, 2026 SST 229

Social Security Tribunal of Canada Appeal Division

Extension of Time Decision

Applicant: D. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated November 14, 2025
(GE-25-2122)

Tribunal member: Elizabeth Usprich

Decision date: March 24, 2026

File number: AD-26-156

Decision

[1] An extension of time to apply to the Appeal Division is refused. The application will not proceed.

Overview

[2] D. M. is the Applicant. He applied for Employment Insurance (EI) regular benefits on October 27, 2022. The Applicant received EI benefits.

[3] In October 2024, the Canada Employment Insurance Commission (Commission) issued a notice of debt to the Applicant.¹ The Applicant asked the Commission to reconsider its decision. It didn't change its position. The Commission decided the Applicant didn't qualify for EI benefits because he didn't have enough hours in his qualifying period. This meant the payments the Applicant received had to be repaid to the Commission.

[4] The Applicant appealed to the Social Security Tribunal (Tribunal) General Division. The General Division asked the Canada Revenue Agency (CRA) for a ruling about the number of hours. The General Division decided the Commission had the authority to review the Applicant's claim and that the Applicant didn't have enough hours to qualify for EI benefits.

[5] The Applicant is 70 days late filing his appeal to the Appeal Division. I am not extending the time for filing. But, even if I did, the appeal has no reasonable chance of success. This means his appeal won't go ahead.

Issues

[6] The issues in this appeal are:

- a) Was the application to the Appeal Division late?
- b) Should I extend the time for filing the application?

¹ See GD3-32 of the Commission's Reconsideration File.

Analysis

The application was late

[7] When deciding whether to grant an extension of time, I have to consider whether the Applicant has a reasonable explanation for why the application is late.²

[8] The Tribunal sent the final decision to the Applicant by regular mail on November 14, 2025. The Tribunal's Rules of Procedure say that when the Tribunal sends a document to a party by regular mail, it's considered to be received 10 days after it was sent.³ So, I find the document was received on November 24, 2025.

[9] An administrative letter, with a copy of the decision, was sent to the Applicant. This letter says:

If you disagree with the Tribunal's decision, you can appeal

Any party who disagrees with this decision can ask the Appeal Division of the Tribunal to review this General Division decision. This is called asking for "leave (permission) to appeal". To start this process, complete an Application to the Appeal Division form. You can find this form on the Tribunal's website at www1.canada.ca/en/sst/forms.html.

You have **30 days from the day you receive this letter** to submit your form.

[10] The administrative letter also communicated the timeline to the Applicant. A party has to file an appeal with the Tribunal's Appeal Division within 30 days from the date the General Division's decision was received.⁴

[11] The date the decision was received was November 4, 2025. The calculation of time starts from the next day. So, November 25, 2025, plus 30 days would mean the Applicant had to file his appeal by December 24, 2025.

² It says this in section 27(2) of the *Social Security Tribunal Rules of Procedure*.

³ See section 22(1) of the *Social Security Tribunal Rules of Procedure*.

⁴ See section 57(1)(a) of the *Department of Employment and Social Development Act (DESDA)*.

[12] The Applicant filed his appeal with the Appeal Division on March 3, 2025. That means the Applicant was 70 days late with his appeal. So, the application was late.

I am not extending the time for filing the application

[13] When deciding whether to grant an extension of time, I have to consider whether the Applicant has a reasonable explanation for why the application is late.⁵

[14] The Applicant gave two reasons why his Application to the Appeal Division was late. First, he says he only recently realized his words were misunderstood. He says he told the EI office he only works seasonal work. Second, he says an interim Record of Employment (ROE) should be an illegal act.

[15] Neither of these reasons explain why he was late filing with the Appeal Division. The Applicant raised this argument with the General Division.⁶ The Applicant feels it's illegal for the Commission to use an interim ROE as the basis for EI benefits.

[16] Ultimately, I understand the Applicant's point. He's frustrated he received EI benefits when he shouldn't have. Now, he has to pay those funds back. But his frustration about how the Commission handled his case doesn't excuse that he was 70 days late filing his appeal. Because the arguments aren't new, I don't find there was anything that prevented the Applicant from applying to the Appeal Division within the appropriate timeframe.

[17] So, I find the Applicant hasn't put forth a reasonable explanation about why he was late. Because of this, I am not extending the time for him to file.

Even if the time were extended, leave to appeal would be denied

[18] Even if I decided there was a reason to extend the time to file the application, I would still deny leave (permission) to appeal. The reason I would deny leave to appeal

⁵ It says this in section 27(2) of the *Social Security Tribunal Rules of Procedure*.

⁶ Listen to the General Division hearing recording at 00:12:07.

is because the Applicant hasn't explained how the General Division made an error in its process or decision.

[19] For the Appeal Division to intervene on one of the General Division's decisions, there must be an arguable case that there is an error (mistake) in the General Division's process or decision. The Appeal Division's role is to look at whether the **General Division** made a mistake with how they handled the Applicant's case. There are only certain grounds of appeal that the Appeal Division can consider.⁷ 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.

[20] The Applicant didn't check off any of these reasons. Instead he refers to paragraph 26 of the General Division's decision. That paragraph is mostly a quote from the Commission's submissions to the General Division.⁸

[21] The Applicant notes that he feels he was misunderstood by the Commission.⁹ He says he was telling the Commission his hourly rate and number of hours for one month of seasonal work. I assume his position is the Commission applied that figure for more than one month of time which inflated his hours.

[22] This is an issue the Applicant has with the Commission. This isn't a mistake the General Division made. Additionally, the General Division considered the Applicant's argument about the interim ROE. It found the Commission did nothing wrong.¹⁰

⁷ See section 58(1) of the DESD Act. The grounds listed are also known as errors.

⁸ See GD4-2 and GD4-3 of the Commission's Submissions to the General Division.

⁹ See AD1-2 the Applicant's Application to the Appeal Division.

¹⁰ See the General Division decision at paragraph 26.

[23] The General Division had to determine if the Commission had the authority to review the Applicant's EI claim for benefits and if he qualified for benefits. The General Division did exactly this.

[24] The General Division looked at the Commission's authority to review the Applicant's claim for benefits.¹¹ It found the Commission acted within its authority when it reviewed the claim.

[25] Next, the General Division requested and received an hours ruling from the CRA.¹² The General Division said it was bound by the CRA's hours ruling.¹³ The CRA said the Applicant worked 530 hours in his qualifying period. The Applicant doesn't dispute this.¹⁴ Unfortunately, to qualify for EI benefits the Applicant needed 700 hours. So, the General Division found the Applicant didn't qualify for EI benefits.

[26] I understand it's frustrating to the Applicant that he now has an overpayment to repay. He feels he shouldn't have received the funds in the first place. But the Commission tries to pay claimants as quickly as it can because people need money after losing their jobs.

[27] I also understand that the Applicant feels the Commission should have stopped payments when it received the second ROE. Again, I understand the Applicant's frustration. However, I'm not reviewing the Commission's process. I'm reviewing the General Division's process.¹⁵

[28] 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

¹¹ See the General Division decision at paragraph 24.

¹² See the General Division's request for this information in GD8 sent on July 23, 2025.

¹³ See the General Division decision at paragraph 21 and see section 90 of the EI Act.

¹⁴ The Applicant told the Tribunal he didn't intend to appeal the CRA ruling and he testified that he agreed with the hours. Listen to the General Division hearing recording at 00:11:47.

¹⁵ 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. 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.

the General Division made a reviewable error that would allow the Appeal Division to step in.

Conclusion

[29] I haven't given the Applicant an extension of time to apply to the Appeal Division. This means that the application will not proceed.

Elizabeth Usprich
Member, Appeal Division