



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *M. S. v Minister of Employment and Social Development*, 2020 SST 586

Tribunal File Number: GP-20-186

BETWEEN:

**M. S.**

Appellant

and

**Minister of Employment and Social Development**

Minister

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Income Security**

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DECISION BY: Patrick O'Neil

DATE OF DECISION: March 11, 2020

## DECISION

[1] The appeal to the General Division of the Social Security Tribunal (Tribunal) was not brought in time and therefore will not proceed.

## OVERVIEW

[2] The Minister denied the Appellant's application for an *Allowance for the Survivor under the Old Age Security Program*<sup>1</sup> at the initial level<sup>2</sup>, and on October 24, 2017 denied the application at the reconsideration level<sup>3</sup>. The Appellant appealed that decision to the Tribunal on January 21, 2020<sup>4</sup>.

## ISSUE

[3] I must decide whether the appeal was brought in time.

## THE LAW

[4] In no case may an appeal be brought to the General Division of the Tribunal more than one year after the day the Minister's reconsideration decision was communicated to the Claimant<sup>5</sup>.

## ANALYSIS

### **The appeal was not brought in time.**

[5] The Minister's reconsideration decision was dated October 24, 2017. I assume the reconsideration decision was sent to the Appellant by mail. I take judicial notice of the fact that mail in Canada is usually received within 10 days. I therefore find that the reconsideration decision was communicated to the Appellant by November 3, 2017.

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<sup>1</sup> GD2R pages 21-24

<sup>2</sup> GD2R pages 19-20

<sup>3</sup> GD2R pages 9-11

<sup>4</sup> GD1 pages 1-17

<sup>5</sup> Subsection 52(2) *Department of Employment and Social Development Act* (DESD Act)

[6] The Appellant appealed the reconsideration decision to the Tribunal on January 21, 2020, being more than one year after the day the Minister's reconsideration decision was communicated to the Appellant.

[7] I find the Appellant brought the appeal to the General Division of the Tribunal more than one year after the decision was communicated to her. I must apply the DESD Act (the Law) which clearly states in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Appellant.

### **CONCLUSION**

[8] The appeal to the General Division of the Tribunal was not brought in time and therefore will not proceed.

Patrick O'Neil  
Member, General Division – Income Security