



[TRANSLATION]

Citation: *EH v Minister of Employment and Social Development*, 2024 SST 557

**Social Security Tribunal of Canada
General Division – Income Security Section**

Decision

Appellant: E. H.
Representative: S. F.
Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated June 6, 2022 (issued by
Service Canada)

Tribunal member: Jean Lazure
Decision date: February 17, 2024
File number: GP-24-158

Decision

[1] The appeal won't go ahead. Here is why.

Overview

[2] The Appellant applied for a pension under the *Old Age Security Act* on October 1, 2018.¹ On February 10, 2020,² the Minister of Employment and Social Development (Minister) refused her application. On March 25, 2020,³ the Appellant asked the Minister to reconsider its decision. On June 23, 2022,⁴ after reconsidering its decision, the Minister refused the application again.

[3] On January 24, 2024,⁵ the Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal).

What I have to decide

[4] I have to decide whether the Appellant filed her appeal on time.

Reasons for my decision

[5] The appeal won't go ahead because the Appellant didn't file her appeal with the Tribunal on time. Here are the reasons for my decision.

What the law says

[6] If a person disagrees with the Minister's reconsideration decision, they have to file an appeal with the Tribunal within 90 days after the Minister told them about the decision.⁶

¹ GD2-9

² GD2-139

³ GD2-141

⁴ GD2-209

⁵ GD1-1

⁶ See section 52(1) of the *Department of Employment and Social Development Act* (DESD Act).

[7] If they don't meet this deadline, the Tribunal can give them more time (in other words, accept the appeal even though it is late). But the deadline to appeal a reconsideration decision can't be extended beyond one year.⁷

The appeal was past the one-year deadline

[8] I find that the Appellant appealed after the one-year deadline.

– The Minister communicated its decision on or around June 20 or July 4, 2023

[9] The Minister communicated its reconsideration decision to the Appellant on or around June 20 or July 4, 2023.

[10] The reconsideration decision letter is dated June 8, 2022.⁸ There is also a copy of this decision dated June 23, 2022.⁹

[11] Canada Post usually delivers mail within 10 days in Canada. It is reasonable to believe that this is what happened in this case. So, I think these letters were delivered to the Appellant around June 20 or July 4, 2023.

[12] The Appellant indicates in her appeal that she received the reconsideration decision on January 4, 2024.¹⁰ I find it unlikely that she would have received the reconsideration letter I referred to above on that date.

[13] The Appellant seems to have responded to the Minister's June 8, 2022, reconsideration decision with a new pension application, received by the Minister on July 21, 2022.¹¹ First, I don't have jurisdiction over this one because it doesn't appear to have been reconsidered yet.

[14] Second, this was followed by correspondence between the Minister and the Appellant about this new pension application. And, on December 8, 2023,¹² the Minister

⁷ See section 52(2) of DESD Act.

⁸ GD2-207

⁹ GD2-209

¹⁰ GD1-3

¹¹ GD2-18, which is also referenced in a letter from the Minister dated September 12, 2023, at GD2-213.

¹² GD2-241

made its initial decision about this application. I find it likely that this is the decision the Appellant received on January 4, 2024, and not the reconsideration letter I referred to above.

– **The appeal had to be filed by July 4, 2023**

[15] The Appellant had until July 4, 2023, to appeal to the Tribunal.

[16] She filed her appeal on January 24, 2024.

[17] The Tribunal doesn't have equitable jurisdiction. In other words, I can't allow the appeal just because I think it would be fair to do so, or because I want to help the Appellant out of a difficult situation. I have to follow the law.

Conclusion

[18] The Appellant filed her appeal more than one year after the Minister communicated its reconsideration decision to her.

[19] This means that the appeal won't go ahead.

Jean Lazure

Member, General Division – Income Security Section