



Citation: *MS v Minister of Employment and Social Development*, 2024 SST 1695

Social Security Tribunal of Canada
General Division – Income Security Section

Decision

Appellant: M. S.

Respondent: Minister of Employment and Social Development

Decision under appeal: Minister of Employment and Social Development
reconsideration decision dated January 10, 2022 (issued
by Service Canada)

Tribunal member: Carol Wilton

Decision date: December 6, 2024

File number: GP-24-1886

Decision

[1] The appeal won't go ahead. This decision explains why.

Overview

[2] The Appellant applied for an Old Age Security (OAS) pension on November 18, 2016. The Minister of Employment and Social Development (Minister) refused her application. She asked it to reconsider. On January 10, 2022, the Minister reconsidered its decision and refused the application again.

[3] The Appellant appealed the reconsideration decision to the Social Security Tribunal (Tribunal) on October 31, 2024.

What I have to decide

[4] I have to decide whether the Appellant appealed in time.

Reasons for my decision

[5] The appeal won't go ahead because the Appellant didn't appeal to the Tribunal in time. Here are the reasons for my decision.

What the law says

[6] If an appellant disagrees with the Minister's reconsideration decision, they have to appeal to the Tribunal within 90 days after the Minister told them about the decision.¹

[7] If the appellant appeals after the deadline, the Tribunal can give them more time (accept the late appeal). But **in no case** can the appellant appeal a reconsideration decision more than one year after the Minister told them about it.²

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

² See section 52(2) of the DESD Act.

The Appellant's appeal was more than one year late

[8] I find that the Appellant's appeal was more than one year late.

– The Minister told the Appellant about its decision on January 10, 2022

[9] The Minister told the Appellant about its reconsideration decision on January 10, 2022.

[10] Canada Post usually delivers mail within 10 days in Canada. It is reasonable to believe that this is what happened here.

[11] The Appellant had until January 20, 2023, to appeal to the Tribunal.

[12] The Appellant appealed on October 31, 2024. The appeal was more than a year late.

[13] The Tribunal doesn't have equitable jurisdiction. This means I can't allow the appeal to go ahead because I think it would be fair, or because I want to help the Appellant in difficult circumstances. I have to follow the law.

Conclusion

[14] The Appellant appealed more than one year after the Minister told her about its decision.

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

Carol Wilton

Member, General Division – Income Security Section