



Citation: *JT v Minister of Employment and Social Development*, 2025 SST 246

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: J. T.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated December 19, 2024
(GP-24-1620)

Tribunal member: Kate Sellar

Decision date: **March 20, 2025**

File number: AD-25-200

Decision

[1] I'm refusing to give the Claimant (J. T.) leave (permission) to appeal. The appeal will not proceed. These are the reasons for my decision.

Overview

[2] In September 2009, the Claimant began receiving the *Old Age Security* (OAS) pension. He also started receiving the *Guaranteed Income Supplement* (GIS).

[3] The GIS is a monthly payment to people with low-incomes receiving the OAS. GIS recipients who leave Canada can only receive payment for the month they leave and for six months afterwards. They can receive the GIS again when they return.

[4] The Claimant travelled to India in August 2020. He wanted to return to Canada in February 2021. But he couldn't because of travel restrictions and then illness. He returned to Canada in April 2023.

[5] The Appellant didn't receive the GIS from May 2021 to April 2023, the month he returned to Canada.

[6] In June 2023, the Appellant told the Minister he had not received the GIS for the previous two years. He felt that this was unfair because he'd been stranded in India due to COVID-19 rules.

[7] On August 16, 2023, the Minister's reconsideration letter stated that the Appellant's GIS was suspended effective June 2021. It would resume effective April 2023, the date when he returned.

[8] The Claimant appealed to this Tribunal on September 12, 2024

[9] The General Division explained that the Claimant's appeal couldn't go ahead because he filed the appeal more than a year after the minister communicated the reconsideration letter to him.

Issues

[10] The issues in this appeal are:

- a) Is there an arguable case that the General Division made an error of law by failing to extend the deadline for the Claimant?
- b) Does the application set out evidence that wasn't presented to the General Division that would justify giving the Claimant permission to appeal?

I'm not giving the Claimant permission to appeal

[11] I can give the Claimant permission to appeal if the application raises an arguable case that the General Division:

- didn't follow a fair process;
- acted beyond its powers or refused to exercise those powers;
- made an error of law;
- made an error of fact; or
- made an error applying the law to the facts.¹

[12] I can also give the Claimant permission to appeal if the application sets out evidence that wasn't presented to the General Division.²

[13] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence, I must refuse permission to appeal.

¹ See section 58.1(a) and (b) in the *Department of Employment and Social Development Act (Act)*.

² See section 58.1(c) of the Act.

There's no arguable case that the General Division made an error of law by failing to accept the Claimant's late appeal.

[14] The Claimant argues that the one-year deadline is a guideline rather than a law that must be followed without exception. He notes that decisions about the GIS are made by this Tribunal, rather than a court, and that people have a right to missing benefits.³

– The law doesn't give the Tribunal the ability to extend the deadline.

[15] The General Division must apply the law, the law states that in no case can a claimant appeal to the General Division more than a year after the Minister communicated the reconsideration decision.⁴

[16] The General Division explained that if a claimant 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. If a claimant appeals after the 90-day deadline, the Tribunal can give them more time (accept the late appeal). But according to the law, **in no case** can a claimant appeal a reconsideration decision more than one year after the Minister told them about it.⁵

[17] The Claimant isn't challenging the fact that he filed the appeal at the General Division more than a year after the Minister communicated its reconsideration decision. The General Division explained that it doesn't have the authority to decide to ignore what the law says and focus on what might lead to a more fair or just outcome given the situation. The General Division has to follow the law as it's written.⁶

[18] There's no arguable case that the General Division made an error of law by treating the one-year deadline as law that it was required to apply rather than a guideline. I see no possible error in the General Division's reading of its inability to grant an extension to the Claimant.

³ See AD1-5.

⁴ See section 52(2) of the Act.

⁵ See paragraphs 11 and 12 in the General Division decision, describing section 52(1) and (2) in the Act.

⁶ See paragraph 18 in the General Division decision.

There's no new evidence.

[19] The Claimant hasn't provided any evidence that wasn't already presented to the General Division. Accordingly, new evidence also cannot form the basis for permission to appeal.

[20] I've reviewed the record.⁷ I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant. The Claimant doesn't dispute that he applied more than a year after the Minister communicated the reconsideration decision. He argues only that the General Division should have given him more time. The General Division explained that the law doesn't allow an extension in any case when a claimant files this late. I see no possible error in the General Division's approach here.

Conclusion

[21] I've refused to give the Claimant permission to appeal. This means that the appeal will not proceed.

Kate Sellar
Member, Appeal Division

⁷ For more on the need for this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.