



Citation: *MS v Minister of Employment and Social Development*, 2025 SST 218

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. S.
Representative: F. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated December 6, 2024
(GP-24-1886)

Tribunal member: Kate Sellar

Decision date: March 13, 2025

File number: AD-25-133

Decision

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

Overview

[2] The Claimant applied for an Old Age Security (OAS) pension on November 18, 2016. The Minister of Employment and Social Development (Minister) refused her application initially and in a reconsideration letter dated January 10, 2022.

[3] The Claimant appealed to this Tribunal on October 31, 2024.

[4] The General Division decided that the appeal couldn't go ahead because the Claimant appealed more than a year after the Minister communicated its reconsideration letter to her.

Issue

[5] The issue in this appeal is the following:

- a) 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

[6] 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

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

[8] Since the Claimant hasn't raised an arguable case and hasn't set out new evidence that would justify giving her permission to appeal, I must refuse permission to appeal.

The Claimant set out new evidence about the reasons for the delay with supporting documentation. But the new evidence cannot justify giving her permission to appeal.

[9] The Claimant has explained at the Appeal Division level that when she received the reconsideration letter, she was diagnosed with an advanced breast cancer. She was fighting for her life. She started extensive treatment including chemotherapy, surgery, and radiation. In the meantime, her husband became ill and was paralysed. She was his sole caregiver.³

[10] In support of this new information, the Claimant provided documents showing the date and location of the appointments she attended from February 2022 to May 2022 for breast cancer treatment.⁴

[11] This new information the Claimant set out and the new supporting documents she provided cannot justify giving her permission to appeal because none of it is related to any issue on appeal.

- **The General Division explained that it didn't have the authority to give the Claimant an extension, regardless of the reason why she was late.**

[12] The General Division explained the law about late appeals.

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

² See section 58.19(c) of the Act.

³ See AD1-5.

⁴ See AD1-11 to 12.

[13] If a claimant disagrees with the Minister's reconsideration decision, they can appeal to the Tribunal within 90 days after the Minister communicated its decision. If a claimant appeals after that deadline, the Tribunal can give them more time (accept the late appeal).

[14] But **in no case** can a claimant appeal a reconsideration decision more than a year after the Minister communicated it.⁵

– **The new evidence doesn't justify giving the Claimant permission to appeal.**

[15] I completely understand why the Claimant filed her appeal to the General Division more than a year after the Minister communicated its reconsideration decision. She and her husband had serious medical problems to deal with.

[16] However, to give the Claimant permission to appeal the General Division decision, she would need to set out new evidence that relates to an issue on appeal.

[17] The reasons why the Claimant filed the appeal after the one-year deadline aren't even arguably relevant when the law says that **in no case** can the General Division grant an extension of time after the one-year deadline is past.

[18] The Claimant had good reasons for taking longer than a year, but there's no authority for the Tribunal to consider those reasons. Since the new evidence isn't relevant to any issue on appeal, it cannot form the basis for giving the Claimant permission to appeal.

[19] I've reviewed the record.⁶ I'm satisfied that there's no arguable case that the General Division ignored or misunderstood any other important evidence. The Claimant isn't challenging the finding that she was past the one-year deadline.

⁵ See paragraphs 6 and 7 in the General Division decision, explaining section 52 in the Act.

⁶ For more on this kind of review by the Appeal Division, see *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

[20] The General Division explained and then followed the law about appeals that are past the one-year deadline. I see no arguable case that the General Division got that law wrong.

[21] The reconsideration letter states that if the Claimant wishes to be considered for the OAS pension again, she must re-apply with a new application and provide the information listed in that letter.⁷

Conclusion

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

Kate Sellar

Member, Appeal Division

⁷ See GD2-591.