



Citation: *DM v Minister of Employment and Social Development*, 2025 SST 1103

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: D. M.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated August 5, 2025
(GP-25-936)

Tribunal member: Kate Sellar

Decision date: **October 22, 2025**

File number: AD-25-579

Decision

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

Overview

[2] In November 2018, the Claimant applied for an Old Age Security (OAS) pension. The Minister of Employment and Social Development (Minister) approved her application effective April 2019 with 32 years of Canadian residence.

[3] The Claimant asked the Minister to reconsider. She stated that she had resided in Canada for 40 years. The March 3, 2021 reconsideration letter from the Minister confirms the initial decision that the Claimant resided in Canada for 32 years.

[4] The Claimant appealed the reconsideration decision to this Tribunal on June 4, 2025. The General Division explained that her appeal would not go ahead because the Claimant filed it too late.

Issues

[5] The issues in this appeal are:

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

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, I must refuse permission to appeal.

There's no arguable case that the General Division made any error that would justify giving the Claimant permission to appeal.

[9] The Claimant argues that there were extenuating circumstances that explain why she took more than a year to appeal the reconsideration decision. The Claimant didn't understand what to do when she received the reconsideration letter. She didn't know there was a deadline for appealing. The pandemic and health issues made it difficult for her to get help, and she has trouble understanding letters like the one she received from Service Canada.³

– The General Division explained what the law says about extensions of time to appeal.

[10] The General Division explained that if claimants disagree with the Minister's reconsideration decision, they have to appeal to the Tribunal within 90 days after the Minister told them about the decision.⁴

[11] The General Division also explained that if claimants appeal after the 90-day deadline, the Tribunal can give them more time. But **in no case** can claimants appeal a reconsideration decision more than a year after the Minister told them about it.⁵

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

² See section 58.1 (c) in the Act.

³ See AD1-1, and 3-4.

⁴ See paragraph 7 in the General Division decision, explaining the requirement in section 52(1) of the Act.

⁵ See paragraph 8 in the General Division decision, explaining the limitations in section 52(2) of the Act.

[12] The General Division found that the Minister communicated its decision to the Claimant by March 13, 2021. The Claimant appealed several years after the deadline on June 4, 2025.

[13] Since the Claimant appealed more than a year after the Minister communicated its decision, the General Division concluded that the appeal couldn't proceed.

– **The Claimant hasn't raised an arguable case for any error by the General Division.**

[14] The Claimant argues only that there are good reasons why she filed her appeal to the General Division after the one-year deadline. However, the General Division explained that it must follow the law, and the law says that **in no case** can the General Division give the Claimant more time because she filed the appeal more than a year after the Minister communicated it to her.

[15] The Claimant has provided to the Appeal Division the reasons why she was past the deadline. However, the General Division already explained that it didn't have the power to consider any reasons about why the Claimant was past the one-year deadline.

[16] There's no arguable case that the General Division made an error in applying the law about the one-year deadline to the facts of the Claimant's case. The Claimant doesn't dispute that she was more than a year late, and she doesn't allege that the General Division got the deadline wrong. She would like an exception to the law about the one-year deadline, but the General Division explained there is no such exception available under the law. The Tribunal must apply the law.

There's no new evidence

[17] 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 giving the Claimant permission to appeal.

[18] I've reviewed the written record.⁶ I'm satisfied that the General Division didn't overlook or misunderstand any important evidence that could change the outcome for the Claimant.

Conclusion

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

Kate Sellar
Member, Appeal Division

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