



Citation: *GE v Minister of Employment and Social Development*, 2026 SST 89

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: G. E.

Respondent: Minister of Employment and Social Development
Representative: Viola Herbert

Decision under appeal: General Division decision dated May 29, 2025
(GP-25-155)

Tribunal member: Jean Lazure

Type of hearing: In person

Hearing date: September 24, 2025

Hearing participants: Appellant
Respondent's representative

Decision date: February 9, 2026

File number: AD-25-419

Decision

[1] The appeal is dismissed.

[2] I find the Minister exercised their discretion judicially. I also find that the Appellant does not meet the test for an extension of time. Therefore, the late request for reconsideration on the part of the Appellant, G. E., cannot be allowed.

Overview

[3] The Appellant applied for an Old Age Security (OAS) pension on November 14, 2017.¹ On February 27, 2018, the Minister of Employment and Social Development (Minister) granted the Appellant a partial pension of 32/40^{ths}.²

[4] On February 27, 2024, the Appellant requested reconsideration of the above decision by the Minister.³ The Minister denied the Appellant's late request for reconsideration.⁴

[5] The Appellant appealed the Minister's decision denying his late request for reconsideration before the General Division of this Tribunal.⁵ The General Division found that the Appellant couldn't have more time to ask the Minister to reconsider their decision about his eligibility for more OAS benefits.⁶

[6] The Appellant requested leave to appeal to the Appeal Division of our Tribunal.⁷ The Appeal Division granted leave on June 19, 2025, and provided its reasons for same on July 8, 2025.

¹ This is found on page GD2-3 of the file.

² See GD2-23.

³ See GD2-27.

⁴ On November 26, 2024, see GD2-67.

⁵ On January 24, 2025, see GD1-1.

⁶ Decision rendered on May 28, 2025, see AD1A-1.

⁷ On June 5, 2025, see AD1-1.

Issues

[7] The issues in this appeal are:

- a) Was the Appellant's request for reconsideration late?
- b) If so, did the Minister act judicially when they refused to give the Appellant an extension of time for the late request?
- c) If the Minister didn't act judicially, does the Appellant meet the test for an extension of time to request reconsideration?

Analysis

[8] I have considered the evidence and the applicable legislation and case law and I find the following:

- the Appellant's request for reconsideration was late;
- the Minister exercised their discretion judicially;
- even if the Minister had not, the Appellant does not meet the test for an extension of time to request reconsideration.

[9] Therefore, the late request for reconsideration on the part of the Appellant cannot be allowed.

The Appellant's request for reconsideration was late

[10] According to the *Old Age Security Act*, a person who is dissatisfied with a decision made under the *Act* may make a request for a reconsideration of that decision within 90 days of having been notified of same.⁸

[11] The Appellant made his request for reconsideration of the Minister's decision dated February 27, 2018, exactly six years later, on February 27, 2024.⁹ I note that

⁸ Subsection 27.1(1) of the *OAS Act*, R.S.C. 1985, c. O-9.

⁹ See GD2-27. It was received by the Minister on that date and is stamped on that date.

when the request form asked “Is your request for reconsideration being submitted within 90 days after receipt of the decision letter?”, the Appellant checked “No”.¹⁰

[12] The Appellant knew his request for reconsideration was late. I find that the Appellant’s request for reconsideration was indeed late.

The Minister exercised their discretion judicially

– The Minister must apply the following factors in making their decision

[13] I stated above that the Appellant had 90 days to request a reconsideration from the Minister. The law also says that the Minister may allow for a longer period to make a request for a reconsideration of a decision if:

- The Minister is satisfied that there is a reasonable explanation for requesting a longer period, and
- The person has demonstrated a continuing intention to request a reconsideration.¹¹

[14] If an appellant asked the Minister to reconsider their decision more than 365 days after the Minister told them about it in writing, then the law says that an appellant has to convince the Minister of two other things:

- their reconsideration request has a reasonable chance of success;
- no prejudice would be caused to the Minister by allowing a longer period to make the request.¹²

[15] In this case, the Appellant’s request came more than 365 days after the decision, so the Minister had to weigh all four of the above factors in coming to their decision. If the Appellant doesn’t meet just one of these four factors, then he isn’t entitled to have the Minister’s decision dated February 27, 2018, reconsidered.

¹⁰ See GD2-28.

¹¹ Subsection 29.1(1) of the *Old Age Security Regulations* and Subsection 27.1(1) of the *OAS Act*.

¹² Subsection 29.1(2) of the *Old Age Security Regulations* and Subsection 27.1(1) of the *OAS Act*.

– **The Minister must apply the factors judicially**

[16] The law says that the Minister *may* allow for a longer period. This is known as a discretionary power: the Minister decides whether to allow for a longer period, or not. However, courts have held that the Minister must exercise their discretion in a judicial manner.¹³ The Federal Court has held that a discretionary power is not exercised judicially if a decision-maker:

- acted in bad faith;
- acted for an improper purpose or motive;
- took into account an irrelevant factor;
- ignored a relevant factor; or
- acted in a discriminatory manner.¹⁴

[17] Of note, another member of the Appeal Division held a case conference with the Appellant on July 3, 2025, to discuss the issues as well as the legal tests listed above.¹⁵

[18] Again, for the Appellant to succeed, he must prove that the Minister did not exercise their discretion judicially in determining that the Appellant did not satisfy all four of the above factors.

– **There is no evidence that the Minister did not act judicially**

[19] First, the Minister had to be satisfied that the Appellant had a reasonable explanation for requesting a longer period. The Minister considered the reason provided by the Appellant, that “he did not have proof of his initial entry into Canada”. The Minister decided that this explanation wasn’t reasonable.¹⁶

¹³ *Canada (A.G.) v. Uppal*, 2008 FCA 388.

¹⁴ *Canada (Attorney General) v. Purcell*, [1996] 1 FC 644.

¹⁵ See AD3-1.

¹⁶ See GD2-70. See also GD5-5 and AD4-10.

[20] There is no evidence here that the Minister acted in bad faith, for an improper purpose or motive, or in a discriminatory manner. There is also no evidence that the Minister took into account an irrelevant factor.

[21] Finally, there is no evidence that the Minister ignored a relevant factor. I will return to this below.¹⁷

[22] Second, the Minister had to be satisfied that the Appellant had demonstrated a continuing intention to request a reconsideration. The Minister said, “Over the years, [the Appellant] has never demonstrated any interest in applying for reconsideration. No phone calls, except one in May 2021, or letters from him before 2024.”¹⁸

[23] There is also no evidence here that the Minister acted in bad faith, for an improper purpose or motive, or in a discriminatory manner. There is also no evidence that the Minister took into account an irrelevant factor, or ignored a relevant factor.

[24] Finally, in considering all four factors, the Minister decided that the Appellant met the last two factors. The Minister determined that the Appellant’s request for reconsideration had a reasonable chance of success.¹⁹ The Minister also determined that no prejudice would be caused to the Minister.²⁰

[25] However, as I said above, the Appellant had to meet all four factors in order for his late request for reconsideration to be considered. As he failed to meet the first two factors, the Minister denied his request. In doing so, I find that the Minister acted judicially.

¹⁷ See paragraph 35 below.

¹⁸ See GD2-70. Also, see GD5-5 and AD4-10.

¹⁹ In the Late Reconsideration Request Extension of the 90-Day Time Limit Decision Document, the Minister said that the Appellant’s request “might have a chance of success”. This document is dated November 26, 2024; see GD2-70. In their written submissions for the hearing into this matter, the Minister indicated that they had “concluded that the Appellant has a reasonable chance of success”. These submissions are dated July 28, 2025; see AD4-1. Of note, the Minister’s written submissions before the General Division said the same thing. These were dated March 27, 2025; see GD5-6.

²⁰ See pages GD2-71, GD5-6, and AD4-11.

Though I find the Minister exercised their discretion judicially, the Appellant does not meet the test for an extension

[26] I reiterate that if the Appellant doesn't meet just one of the four factors to be considered when a request for reconsideration is submitted more than 365 days after the decision, then he isn't entitled to have the Minister's decision dated February 27, 2018, reconsidered.

– In any case, the Appellant did not have a reasonable explanation for requesting a longer period

[27] I agree with the Minister's conclusion that the Appellant did not have a reasonable explanation for the delay. In considering this factor, one cannot ignore the delay itself. The Appellant requested reconsideration six years to the day after the decision of February 27, 2018, on February 27, 2024, when he had had 90 days to do so. It is obviously more difficult to have a reasonable explanation for a delay of almost six years than it would be for a much shorter delay.²¹

[28] In February 2024, when the Appellant requested reconsideration, he provided the Minister with his passport as well as documents related to his attendance at Concordia University.²² It seems plausible that these documents could support more residence in Canada than the 34 years that were recognized by the Minister in their decision of February 2018.

[29] Indeed, in a questionnaire requested by the Minister, the Appellant had indicated that he had entered Canada on August 29, 1977.²³ And it seems the passport he filed in February 2024 proves he arrived in Canada on August 30, 1977.²⁴ And though this doesn't necessarily prove residence, it is possible that it could.²⁵

²¹ The request for reconsideration was late by six years minus the 90-day period in 2018, or by approximately 57 months.

²² See GD2-33 to GD2-66. This is the passport that the Appellant said had been missing.

²³ On February 13, 2018; see GD2-18.

²⁴ See GD2-39.

²⁵ It proves his arrival in Canada, which is not the same as residence.

[30] The Appellant testified at the hearing that he could not request a reconsideration before 2024 because he had not yet found his passport. However, I note that the documents related to his attendance at Concordia University seem to prove full-time attendance as of September 1978.²⁶ Again, though these documents don't necessarily prove Canadian residence, it is also possible that they could.

[31] I also note that these Concordia University documents could have been obtained and filed with the Minister much earlier than February 2024.

[32] The Appellant testified at the hearing that in his opinion, the Minister had acted unfairly by not guiding him in relation to his attendance at Concordia University. The only mention of his university studies on file is in that questionnaire I mentioned above, where the Appellant mentions four years of university studies.²⁷

[33] At the hearing, the Appellant also seemed angry with himself for not having realized earlier that his attendance at Concordia University could have been proven with documents that he could have obtained. He did eventually obtain them. I sympathize with the Appellant, but I don't see how any of this is the Minister's fault, or how the Minister acted unfairly towards him.

[34] Finally, at the hearing, the Appellant testified that he was unable to request reconsideration earlier because he had been a caregiver for his elderly mother-in-law, who had dementia. Though I very much sympathize with the Appellant, it is not possible for me to reconcile taking care of an elderly relative with being late by almost six years.

[35] Also, there is nothing in the file that indicates that the Minister knew of the Appellant's role as a caregiver for his mother-in-law. The Minister in fact indicated that they had never been informed of this.²⁸ The Minister cannot be faulted for not taking into account a factor that the Appellant never brought to their attention.

²⁶ See GD2-53.

²⁷ See paragraph 29. Also see GD2-18.

²⁸ See AD4-10.

[36] I find that the Appellant did not have a reasonable explanation for his request for reconsideration being late by almost six years.

– **In any case, the Appellant did not demonstrate a continuing intention to request a reconsideration**

[37] Even if the Appellant had a reasonable explanation for his request for reconsideration being late by almost six years, I find that the Appellant did not demonstrate a continuing intention to request a reconsideration.

[38] The Minister's evidence is that the Appellant called them once after the decision on February 27, 2018. This was in 2021, and they advised the Appellant to submit a written request for reconsideration.²⁹

[39] The Appellant testified at the hearing that he made a prior phone call to the Minister in 2020, and possibly one before that, in 2018. The Minister has no record of these phone calls.

[40] However, whether or not these earlier phone calls took place isn't important, for this reason: after the 2021 phone call, the Appellant did not communicate with the Minister for almost another three years, until his request for reconsideration of February 27, 2024.

[41] During this time, the Appellant could have communicated with the Minister. He could have informed them he was looking for his missing passport. He could have obtained the documents from Concordia University. He could also have filed his request for reconsideration much earlier, after the 2021 phone call, considering he was already almost three years late at that time.

[42] I don't see a reasonable explanation for the Appellant having waited almost three years after the 2021 phone call to request reconsideration. And I find that the complete absence of communication during that time demonstrates that the Appellant did not have a continuing intention to request reconsideration.

²⁹ See AD4-10 and GD5-5.

Conclusion

[43] I find the Minister exercised their discretion judicially. I also find that the Appellant does not meet the test for an extension of time. Therefore, the late request for reconsideration on the part of the Appellant cannot be allowed.

[44] This means that the appeal is dismissed.

Jean Lazure
Member, Appeal Division