



Citation: *JO v Minister of Employment and Social Development*, 2026 SST 145

Social Security Tribunal of Canada Appeal Division

Extension of Time and Leave to Appeal Decision

Applicant: J. O.

Respondent: Minister of Employment and Social Development

Decision under appeal: General Division decision dated October 23, 2025
(GP-25-804)

Tribunal member: Neil Nawaz

Decision date: February 27, 2026

File number: AD-26-67

Decision

[1] I am refusing the Applicant permission to appeal. This appeal will not be going forward.

Overview

[2] The Applicant was born in June 1957. In June 2021, Service Canada notified her that she would be automatically enrolled for the Old Age Security (OAS) pension after her 65th birthday. At the same time, Service Canada decided that it couldn't automatically enrol her for the Guaranteed Income Supplement (GIS) because she hadn't filed her 2021 income tax return.

[3] In July 2022, the Applicant began receiving the OAS pension but not the GIS. In November 2023, she applied for the GIS.¹ Service Canada approved the Applicant's application effective December 2022, which it determined was the maximum retroactive amount permitted by law.

[4] The Applicant asked for reconsideration of that decision. She thought that she should get GIS payments from the time her OAS payments started. Service Canada refused to change its decision because, in its view, the Applicant was not entitled to further back payments under the law.

[5] The Applicant appealed the Minister's denial to the Social Security Tribunal. She claimed that Service Canada personnel had given her misleading advice about how and when to apply for the GIS. The Tribunal's General Division held an in-person hearing and dismissed the Appeal. It found that Service Canada had initiated the Applicant's GIS in accordance with the law. It also found that it had no authority to correct any misleading advice offered by agents of the Minister.

¹ See the Applicant's GIS application dated January 12, 2024, GD2-26.

[6] The Applicant then requested leave, or permission, to appeal the General Division's decision.² In her application, she made the following points:

- The General Division member who heard her case did not consider the fact that Service Canada gave her bad advice.
- A Service Canada representative told her that she would receive the GIS retroactive to when she turned 65. He never said she'd get only 11 months of back payments.

[7] However much I may sympathize with the Applicant, I can't allow her appeal to proceed. That's because she hasn't met any of the grounds of appeal.

Preliminary Matter

[8] An application for leave to appeal must be made to the Appeal Division within 90 days after the day on which the decision was communicated to the applicant.³ However, the Appeal Division may extend the time within which a leave to appeal applicant is to be made.

[9] In this case, the General Division issued its decision on October 23, 2025. That same day, it was couriered to the Applicant at the mailing address she had previously provided to the Tribunal.

[10] The Tribunal received the Applicant's application for leave to appeal on February 2, 2026. In it, the Applicant indicated that she received the General Division's decision on October 30, 2025.

[11] The Applicant's request for leave to appeal was, by my reckoning, four days late. But, in the interest of justice, I'm allowing a short extension in the filing deadline.

² See the Applicant's leave to appeal application dated February 2, 2026, AD1.

³ See section 57(1)(b) of the *Department of Employment and Social Development Act* (DESDA).

Issue

[12] There's no automatic right to appeal a General Division decision. The Appeal Division must first give permission to appeal. It will only do so if an applicant produces new evidence or if they present an arguable case that the General Division

- proceeded in a way that was unfair;
- acted beyond its powers or refused to exercise those powers; or
- made an error of law or fact or some combination of the two.⁴

[13] The Applicant did not produce new evidence, so my task was to decide whether the General Division possibly made a mistake that fell into one of the specified categories.

Analysis

[14] I have reviewed the record, and I don't see an arguable case that the General Division misinterpreted the applicable law, misconstrued the available evidence, or otherwise acted unfairly.⁵

[15] The General Division decided that the Applicant was not entitled to additional retroactive GIS payments for the following reasons:

- The law says a GIS applicant isn't entitled to more than 11 months of payments before the month the application is received.⁶
- Because the Applicant applied for the GIS in November 2023, she's not entitled to receive payments earlier than December 2022.

⁴ See section 58.1(b) of the DESDA.

⁵ See *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

⁶ See sections 11(3.1) and 11(7)(a) of the *Old Age Security Act* (OAS Act).

[16] I don't see how the General Division erred in making these findings. What's more, the Applicant hasn't identified any specific flaws in the General Division's decision or the process by which it came to that decision. She essentially repeats the arguments that she made at the General Division, but that is not enough to advance her appeal.

[17] The Applicant's main complaint is that the General Division ignored what she alleges was misguidance from a Service Canada representative. That's not quite true: the General Division considered the allegation but decided there was nothing it could do about it.

[18] Again, I don't see an arguable case that the General Division made a mistake by coming to this conclusion. We can't be sure what Service Canada actually told the Applicant. But even if it provided her with misleading information, the law doesn't permit the General Division to override the legislation and direct the Minister to give her additional back payments.

[19] This Tribunal is created by legislation and, as such, has only the powers granted to it by its governing statute. According to the *Old Age Security Act*, the Minister may take remedial action if he is satisfied that an applicant was denied a benefit because of erroneous advice or administrative error.⁷ Use of the words "may" and "satisfied" in this provision suggests that such a decision is purely discretionary — the Minister doesn't have to fix his mistake if he doesn't think it is warranted. Case law says that administrative tribunals, such as this one, can't force the Minister to revisit or reverse a decision that he has taken voluntarily.⁸ In this case, since the Minister has never admitted to an error, the General Division couldn't make him correct it.

⁷ See section 32 of the *OAS Act*.

⁸ See *Canada (Minister of Human Resources Development) v Tucker*, 2003 FCA 278.

Conclusion

[20] I don't see an arguable case that the General Division committed a legal or factual error or otherwise failed to observe a principle of natural justice.

[21] This means her appeal will not proceed.



Member, Appeal Division