



Citation: *LP v Canada Employment Insurance Commission*, 2024 SST 217

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: L. P.

Respondent: Canada Employment Insurance Commission
Representative: Kevin Goodwin

Decision under appeal: General Division decision dated September 13, 2023
(GE-23-710)

Tribunal member: Janet Lew

Type of hearing:

Decision date: March 5, 2024

File number: AD-23-910

Decision

[1] The appeal is allowed. The matter will go back to the General Division for reconsideration.

Overview

[2] The Appellant, L. P. (Claimant), is appealing the General Division decision. The General Division issued a decision following a hearing on September 11, 2023.

[3] The General Division noted that the Claimant was not at the hearing. The General Division decided that it would go ahead with the hearing even though the Claimant was not present. The General Division was satisfied that the Claimant got the Notice of Hearing from the Social Security Tribunal (Tribunal). In other words, it was satisfied that the Claimant knew about the hearing but, for whatever reason, chose not to attend.

[4] The Claimant argues that the General Division did not follow procedural fairness. She claims that she was unaware of the General Division hearing and therefore did not get the chance to attend. The General Division had changed the hearing date but she did not receive the new notice of hearing by email. She explains that she did not have Wi-Fi or data left on her account, so could not access her email messages.

Parties' positions

[5] The Respondent, the Canada Employment Insurance Commission (Commission), accepts that the Claimant did not receive notice of the hearing. Although the Tribunal tried to contact the Claimant, it was unable to leave a voice mail message about the hearing, as her mailbox was full.¹ Also, the General Division could not have known that the Claimant was unable to access her email messages.

[6] The Commission asks the Appeal Division to refer the matter to the General Division for reconsideration. The Commission says that this will allow the General

¹ See telephone conversation log, dated September 5, 2023.

Division to review any additional submissions from the Claimant, while ensuring access to an open and fair hearing.² The Claimant agrees with this remedy.³

Conclusion

[7] I am allowing the appeal. Returning the matter to the General Division is the appropriate remedy in the circumstances of this case. It is a principle of procedural fairness that a party should receive adequate and timely notice of hearings.

[8] As a footnote, in future, if the Claimant should be without email access, she should ask or at least let the Tribunal know to change how it communicates with her. If the Claimant does not have access to emails, the Tribunal can use postal mail to send her notices.⁴

Janet Lew
Member, Appeal Division

² See Commission's Representations to the Social Security Tribunal, at AD4.

³ See Claimant's email dated February 29, 2024, at AD9.

⁴ The Claimant says that she is also seeking legal representation. Once she has a legal representative, she should let the Tribunal know.