

Federal Court



Cour fédérale

**Date: 20191211**

**Docket: T-779-18**

**Citation: 2019 FC 1585**

**Saskatoon, Saskatchewan, December 11, 2019**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**ENZO PELLETTIERI**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**(Delivered from the bench in Saskatoon, Saskatchewan on December 10, 2019)**

[1] Our legal system allows courts and tribunals to review decisions made by the government. But our legal system functions according to established procedures. These procedures include time limits. Time limits may sometimes be harsh. So there are also procedures for extending time limits. But these procedures include ultimate time limits, which are necessary to ensure the finality of decisions.

[2] The origin of this case is a decision made by the Canada Employment Insurance Commission in 2012. The Commission decided that Mr. Pellettieri received employment insurance benefits while he was unable to work and ordered him to repay those benefits. The reasons for that decision appear to be found at pages 57–58 of the Respondent’s record. While Mr. Pellettieri was entitled to challenge that decision, he did not do so according to the established procedure and time limits.

[3] He did not ask the Commission to reconsider its decision in 2012, as he was entitled to do. He waited until 2014, when the Commission garnished his wages, to ask for reconsideration. But the deadline had already passed, and the Commission found that Mr. Pellettieri’s explanations for the delay were not adequate.

[4] Mr. Pellettieri then sought to bring the matter before the General Division of the Social Security Tribunal. He filed a notice of appeal on June 10, 2014, but failed to include a copy of the decision that he was challenging. The Tribunal informed him in writing that it was necessary to do so. However, only three years later did Mr. Pellettieri provide the missing information. By that time, the usual 30-day time limit to file an appeal and the one-year ultimate time limit to seek an extension of time had already expired.

[5] The General Division denied Mr. Pellettieri’s request for an extension of time, essentially because Mr. Pellettieri completed his notice of appeal more than one year after he became aware of the decision he seeks to challenge. Mr. Pellettieri then sought leave to appeal that decision to

the Appeal Division of the Social Security Tribunal. The Appeal Division denied leave, because the proposed appeal had no reasonable chance of success.

[6] The only issue before me today is whether the decision of the Appeal Division is reasonable. Logically, this also requires me to review the decision of the General Division.

[7] After reviewing the record, I conclude that the General Division had no choice but to dismiss Mr. Pellettieri's appeal. Section 52(2) of the Department of Employment and Social Development Act, SC 2005, c 34, states that "The General Division may allow further time within which an appeal may be brought, but in no case may an appeal be brought more than one year after the day on which the decision is communicated to the appellant." In this case, the completed notice of appeal was filed three years after the decision.

[8] For that reason, the Appeal Division made a reasonable decision when it denied leave to appeal.

[9] Mr. Pellettieri also asks this Court to reinstate his employment insurance benefits and to order the Commission to reimburse the moneys he paid. However, that would be beyond the scope of this application for judicial review. The only decision before me is the Appeal Division's refusal to grant leave to appeal the decision of the General Division. Had I found that decision to be unreasonable, the only thing I could have done is to return the matter to the Tribunal so it could rule again on the application for an extension of time. I cannot make a decision myself about Mr. Pellettieri's eligibility to employment insurance benefits.

[10] For those reasons, this application for judicial review is dismissed without costs.

**JUDGMENT in T-779-18**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed without costs.

“Sébastien Grammond”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-779-18

**STYLE OF CAUSE:** ENZO PELLETTIERI v ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** SASKATOON, SASKATCHEWAN

**DATE OF HEARING:** DECEMBER 10, 2019

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** DECEMBER 11, 2019

**APPEARANCES:**

Enzo Pellettieri

FOR THE APPLICANT  
(ON HIS OWN BEHALF)

John Unrau

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Saskatoon, Saskatchewan

FOR THE RESPONDENT