

# Challenging CPP and OAS Decisions

Navigating the new appeal system  
and the Social Security Tribunal

# What You Will Learn

- Overview of new system.
- The different levels of appeal:
  - Reconsideration
  - The Social Security Tribunal – General Division
  - The Social Security Tribunal – Appeal Division

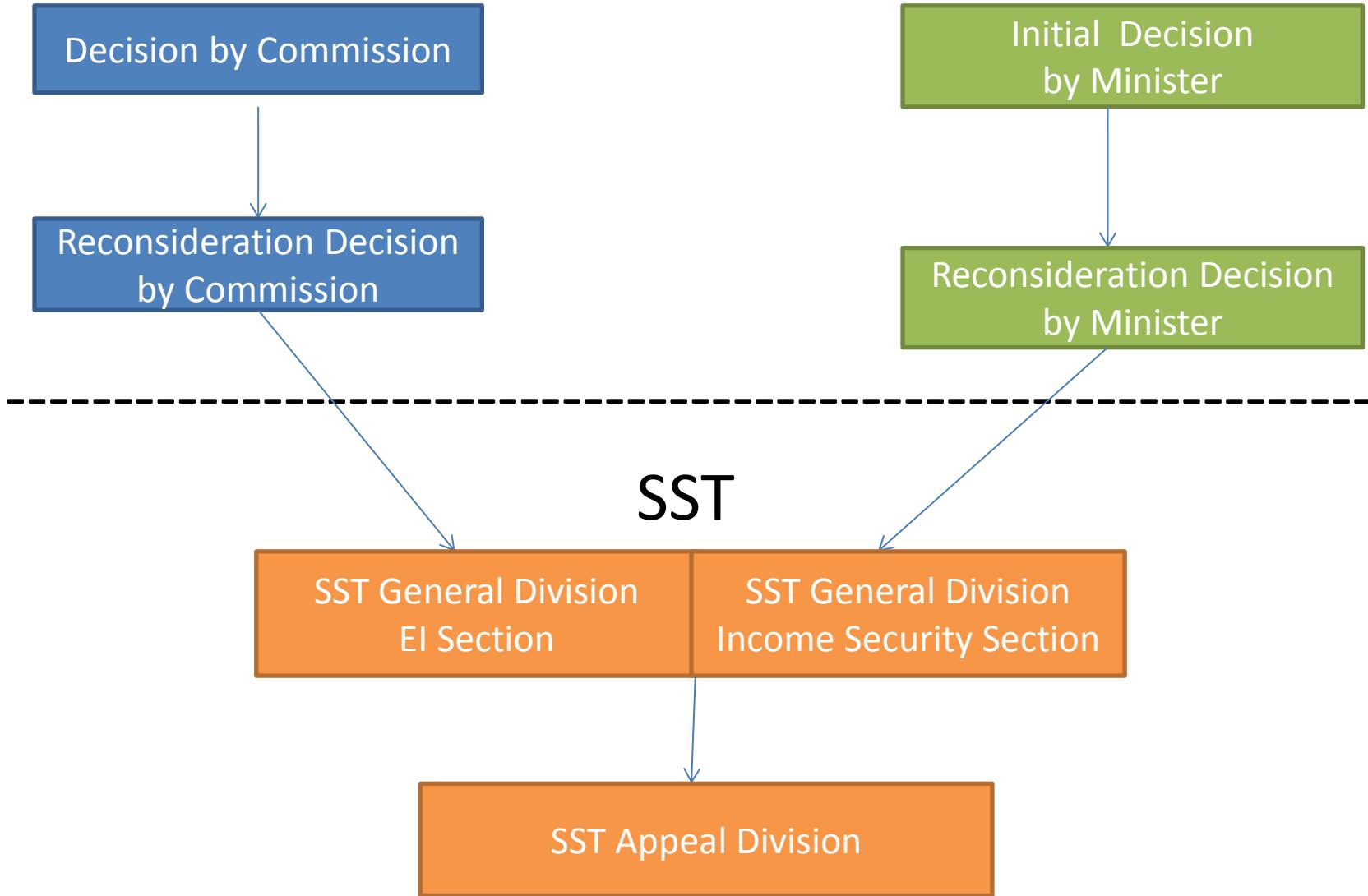


# Overview of What's New

- Review Tribunals and Pension Appeals Board are gone.
- CPP and OAS appeals now heard by the Social Security Tribunal.

**EI**

**CPP/OAS**





# Reconsideration

- Nothing really new.
  - Deadline remains 90 days from date decision is communicated.
  - Can get extension of time.



# Reconsideration

- No specific form necessary.
- Must be in writing:
  - Name, address, phone, SIN.
  - Explain what's wrong with decision.
  - Signed and dated by client.
- Drop off or mail to Service Canada.
- Representatives must send in authorization.

# Reconsideration: Requesting the Claimant's CPP File

- File not sent automatically.
- Must request under *Privacy Act*.
- Can request online.  
[www.tbs-sct.gc.ca/atip-aiprp/index-eng.asp](http://www.tbs-sct.gc.ca/atip-aiprp/index-eng.asp)
- Direct request to Employment and Social Development Canada.

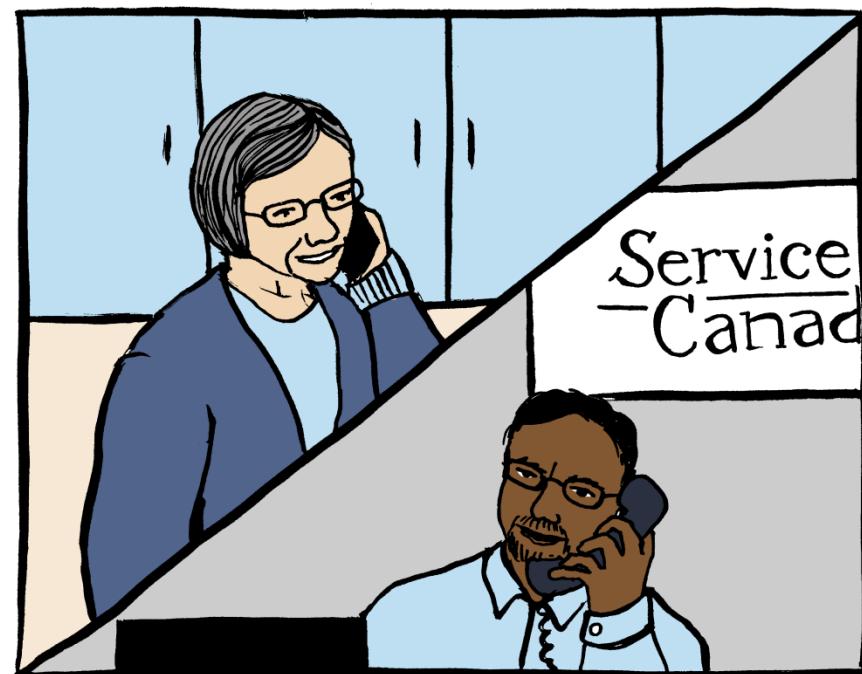


# Reconsideration: The Decision

- No hearing. Reconsideration officer will:
  - Review the file and new information.
  - Obtain other relevant information.
  - Ensure decision consistent with evidence and law.
- Written decision will be mailed out.

# Key Points: Reconsideration

- Not much has changed.
- Deadline is 90 days from date decision is communicated.
- No formal hearing.
- Can now request CPP or OAS file online.



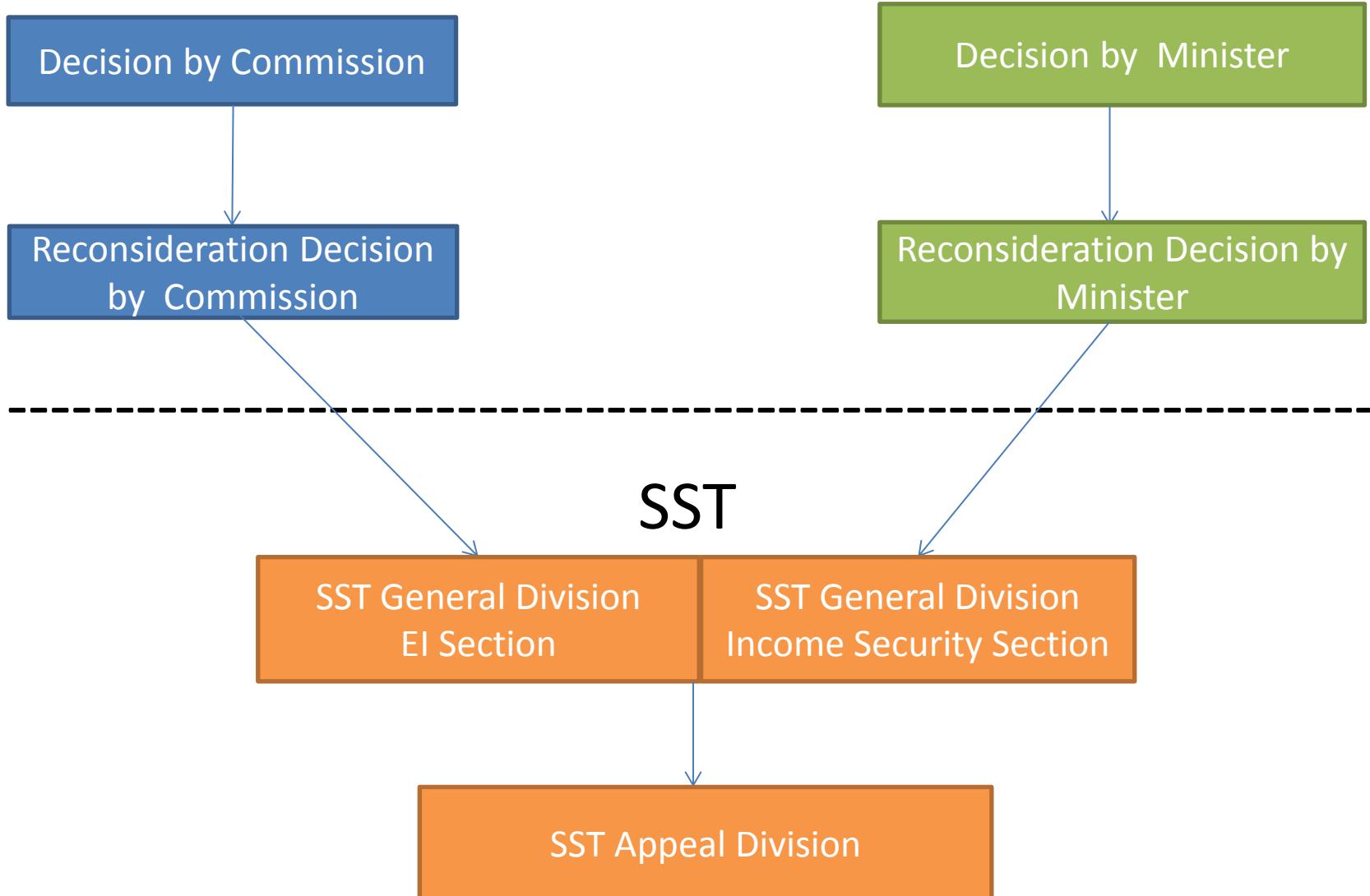


# The Social Security Tribunal

- Federal tribunal for EI, CPP, and OAS appeals.
- Two divisions:
  - General Division.
  - Appeal Division.
- General division has two sections:
  - The EI Section.
  - Income Security Section (CPP and OAS).

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# The SST General Division

- Deadline is 90 days from date decision is communicated.
- No extensions beyond 1 year.
- Send in a Notice of Appeal.



# Communicating with the SST

- Call centre, call backs in 3 business days.
- Use of email is unclear.
- Deemed to receive documents:
  - Regular mail: 10 days.
  - Fax or email: Next business day.
  - Courier or registered mail: Day someone signs or delivered to last known address.



# SST General Division

## After Appeal is Filed

- You should receive the Minister's recon file.
- You submit new evidence and submissions.
- Minister will send submissions.
- 365 day rule not enforced (at least for now).

# SST General Division Settlement Offers

- Minister will sometimes make offer to settle.
- Two ways to finalize settlement:
  - Submit consent order to SST (note SST not obligated to accept settlement).
  - Sign agreement, withdraw appeal.

# SST General Division: Summary Dismissal

- If there is no reasonable chance of success, must dismiss.
- SST will give you a final opportunity to explain why appeal could succeed.



# SST General Division: How will the appeal proceed?

- On the record (no hearing).
- Written question and answer.
- Teleconference.
- Video conference.
- In person hearing.

# SST General Division: Hearing Information Form

- SST Member ultimately decides how appeal will proceed.
- SST will send “Hearing Information Form”.
- You fill out and return with your input.





## Hearing Information Form - Income Security

Please complete this form and send it to the Social Security Tribunal.

The information you provide in this document will assist the Tribunal Member to:

- a. decide the appropriate form of hearing (written questions and answers, teleconference, videoconference or personal appearance of the parties); and
- b. schedule a hearing.

**Note:** In appropriate circumstances, the Tribunal Member may make a decision on your appeal without a hearing.

I have previously completed this form and have no changes to the information I sent at that time.

### 1 - APPEAL INFORMATION (Please Print)

Name of Appellant  Appeal Number

### 2 - HEARING INFORMATION (Please Print)

This form is being completed by, or on behalf of:

The Appellant  The Respondent  An Added Party

Will someone represent you at the hearing?

NO  YES (If YES, see Note below)

**Note:** If you want someone to represent you at the hearing, you must complete, sign, and submit an Authorization to Disclose (SST-ATD). This allows that person to act on your behalf. The form is available on the Social Security Tribunal website.

Will you have any witness(es) at the hearing?

NO  YES (specify)

If YES, specify the number of witness(es):

Do you speak English or French well enough to present your appeal and answer questions during the hearing?

YES  NO

If NO, please specify the language(s) in which you would be comfortable expressing yourself:

Are there any forms of hearing in which you could **not** participate? If so, check the box(es) and explain why.

Written questions and answers  Teleconference (by telephone)  
 Videoconference  Personal appearance of the parties  
(at a Service Canada Centre)  (at a Service Canada Centre)

Reason (If you require any additional space, please use a separate sheet of paper.):



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

PROTECTED B (when completed)

Are there any specific dates, in the next 365 days, when you would be **unavailable** for a hearing? Please specify the dates:

Note: You may contact the Tribunal or submit a new Hearing Information Form to update your availability, as needed.

Please specify your preferred day(s) of the week and time of day for a hearing: (Check all applicable boxes)

Monday     Tuesday     Wednesday     Thursday     Friday    **OR**     Any day

Morning Only     Afternoon Only    **OR**     Any time

Completed By: (print name)	Signature:	Date:
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If the Tribunal Member decides to proceed with a hearing, it will be conducted in the language used to file the appeal. If a videoconference or an in-person hearing is selected, it will generally be scheduled at the hearing location nearest to the Appellant's address on file. The use of this form does not guarantee that a hearing would be held within the next 365 days. Appeals and hearings will generally proceed in the order in which the appeals were filed.

#### MAILING INSTRUCTIONS

Mail this Hearing Information Form to:

Social Security Tribunal  
P.O. Box 9812 STN T CSC  
Ottawa, ON  
K1G 6S3

#### CONTACT INFORMATION

Need help completing the forms? The SST hours of operation are 07:00 to 20:00 (EST).

Internet: [www.canada.gc.ca/sst-tss](http://www.canada.gc.ca/sst-tss)      E-Mail: [info.sst-tss@canada.gc.ca](mailto:info.sst-tss@canada.gc.ca)

Telephone: 1-877-227-8577

Fax: 1-855-814-4117

TTY: 1-800-465-7735

# SST General Division: In Person Hearings

- Credibility is an issue.
- Many people attending hearing.
- The appeal is very complex.
- Hard for client to follow hearing by phone or video.

# SST General Division: Notice of Assignment

- Letter saying SST Member will soon be assigned to appeal.
- If you are not ready to proceed, let SST know.
- Start preparing final evidence or submissions.



# SST General Division: The Notice of Hearing

- What type of hearing will be held.
- When and where to go for in person / video conference.
- Call in instructions for teleconference.
- Deadline for any final submissions (at least 30 days).
- Hearing file often sent at same time.

# SST General Division: Rescheduling and Adjournments

- 48 hour window to reschedule.
- After that, must request adjournment, provide reasons.
- Second adjournment only in “exceptional circumstances.”

# SST General Division: Preparing for the Hearing

- Review the hearing file when the SST sends it out.
- Review Minister's submissions.
- Crucial to send in all helpful evidence.
- Prepare witnesses.

# SST General Division: At the Hearing

- Decision made by one SST Member.
- Minister rarely sends a representative.
- Basic structure of hearing is the same.
- Decision will be mailed out after hearing.



# SST General Division: Key Points

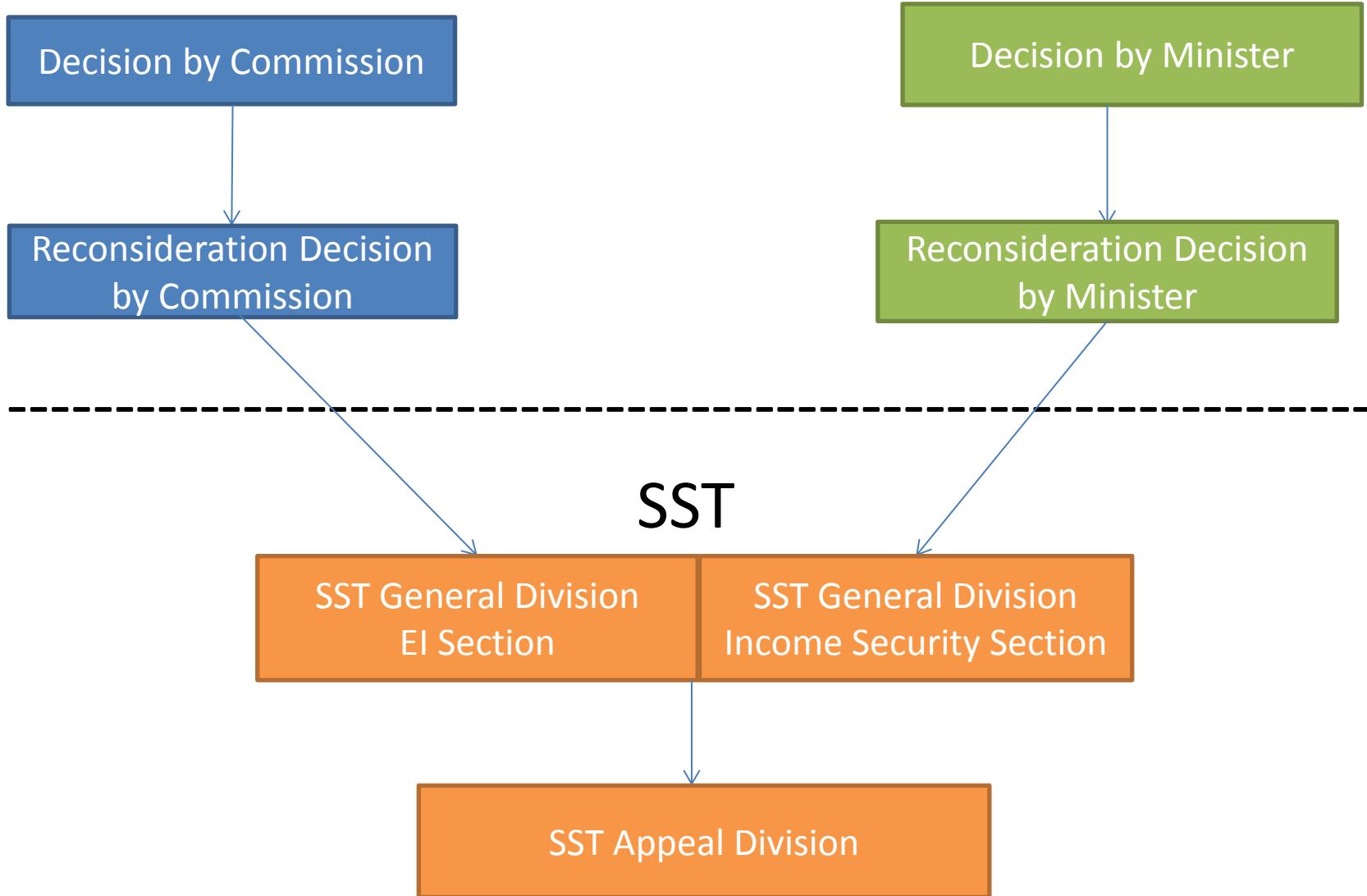
- Deadline is 90 days from communication of reconsideration decision.
- No extensions of time beyond 1 year.
- Summary dismissal if no chance of success.
- Hearing may not be in person. Or maybe no hearing at all!
- Strict with rescheduling and adjournments.
- Decisions now made by a single member.





**EI**

**CPP / OAS**



# SST Appeal Division

- You need leave (permission) to appeal.
- Reasonable chance of success.
- Exception if case was summarily dismissed, can appeal automatically.
- Minister can also seek leave to appeal.
- Deadline is 90 days from date decision is first communicated.

# SST Appeal Division: Grounds for Appeal

- Breaches of natural justice.
- Jurisdiction.
- Errors of law.
- The decision is based on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it.

**Note: new evidence generally not allowed.**

# SST Appeal Division: Decision on Leave to Appeal

- Decision will be in writing.
- If leave denied, case over (subject to judicial review).
- If leave granted, appeal will proceed.



# SST Appeal Division: What happens if you get leave?

- 45 days to file written submissions.
- Appeal Division does not have to hold a hearing.
- If Appeal Division does hold a hearing, will send a Notice of Hearing.



# SST Appeal Division: At the Hearing

- Appeal heard by one SST Member.
- Minister usually sends a lawyer.
- Generally no witnesses.
- Focus on the grounds for review.
- Decision mailed out after hearing.



**Note:** 1 year deadline to reopen a decision for new evidence.

# SST Appeal Division: Key Points

- Need leave to appeal.
- Deadline is 90 days from date general division decision is communicated.
- No extensions beyond 1 year.
- Narrow grounds for appeal.
- Generally no new evidence.
- No obligation to hold a hearing.





# Wrap Up

- PovNet runs courses.  
[povnetu@povnet.org](mailto:povnetu@povnet.org)
- Disability Alliance BC guidebooks.  
[www.disabilityalliancebc.org](http://www.disabilityalliancebc.org)
- Community Legal Assistance Society  
[www.clasbc.net](http://www.clasbc.net)



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**Generously funded by the Law Foundation of BC**

