



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Appeals

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## ORDER AND REASONS

Application No. EP-2004-007

Arwen Long

*Order and reasons issued  
Wednesday, February 23, 2005*

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IN THE MATTER OF an application made by Ms. Arwen Long pursuant to section 67.1 of the *Customs Act*, R.S.C. 1985 (2d Supp.), c. 1, for an order extending the time within which a notice of appeal may be filed under section 67.

**ORDER OF THE TRIBUNAL**

The Canadian International Trade Tribunal denies the application for an extension of time to file a notice of appeal under section 67 of the *Customs Act*.

Pierre Gosselin  
Pierre Gosselin  
Presiding Member

Ellen Fry  
Ellen Fry  
Member

Meriel V. M. Bradford  
Meriel V. M. Bradford  
Member

Hélène Nadeau  
Hélène Nadeau  
Secretary

## STATEMENT OF REASONS

### BACKGROUND

1. On August 12, 2004, Ms. Arwen Long sought to appeal a decision of the President of the Canada Border Services Agency (CBSA) whereby the CBSA re-determined the tariff classification of Ms. Long's goods pursuant to subsection 60(4) of the *Customs Act*.<sup>1</sup>
2. On September 8, 2004, the Tribunal advised Ms. Long that her appeal had not been filed within the required time. The application was received 10 days out of time, i.e. beyond the 90-day limit prescribed by subsection 67(1) of the *Act*. Therefore, the appeal request was treated as an application for an extension of time.
3. On September 17, 2004, Ms. Long responded to the Tribunal's letter of September 8, 2004, and provided the requested information.
4. The Tribunal requested the CBSA to respond to Ms. Long's request for an extension of time and received a respondent's brief.

### ANALYSIS

5. Section 67 of the *Act* reads in part as follows:

67. (1) A person aggrieved by a decision of the Commissioner made under section 60 or 61 may appeal from the decision to the Canadian International Trade Tribunal by filing a notice of appeal in writing with the Commissioner and the Secretary of the Canadian International Trade Tribunal within ninety days after the time notice of the decision was given.
6. Section 67.1 of the *Act* reads as follows:

67.1 (1) If no notice of appeal has been filed within the time set out in section 67, a person may make an application to the Canadian International Trade Tribunal for an order extending the time within which a notice of appeal may be filed, and the Tribunal may make an order extending the time for appealing and may impose any terms that it considers just.

  - (2) The application must set out the reasons why the notice of appeal was not filed on time.
  - (3) The application must be made by filing with the Commissioner and the Secretary of the Canadian International Trade Tribunal the application accompanied by the notice of appeal.
  - (4) No order may be made under this section unless
    - (a) the application is made within one year after the expiry of the time set out in section 67; and
    - (b) the person making the application demonstrates that
      - (i) within the time set out in section 67 for appealing, the person was unable to act or to give a mandate to act in the person's name or the person had a *bona fide* intention to appeal,
      - (ii) it would be just and equitable to grant the application,
      - (iii) the application was made as soon as circumstances permitted, and
      - (iv) there are reasonable grounds for the appeal.
7. An applicant must meet all five conditions in section 67.1 of the *Act* to succeed.

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].

8. With regard to subparagraph 67.1(4)(b)(i) of the *Act*, Ms. Long did not provide any evidence that she had been unable to act within the prescribed period of time or had a *bona fide* intention to appeal. Therefore, Ms. Long's application is denied.

Pierre Gosselin  
Pierre Gosselin  
Presiding Member

Ellen Fry  
Ellen Fry  
Member

Meriel V. M. Bradford  
Meriel V. M. Bradford  
Member