Citation: *J. L. v. Minister of Employment and Social Development*, 2014 SSTAD 303

Appeal No: AD-13-205

BETWEEN:

J. L.

Appellant

and

Minister of Employment and Social Development
(Formerly Minister of Human Resources and Skills Development)

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal Decision

SOCIAL SECURITY TRIBUNAL MEMBER:	VALERIE HAZLETT PARKER
HEARING DATE:	October 14, 2015
TYPE OF HEARING:	On the Written Record
DATE OF DECISION:	October 20, 2014

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] On February 4, 2013, a Review Tribunal dismissed the Appellant's claim.

[3] The Appellant filed an Application for Leave to Appeal from that decision with the Appeal Division of the Social Security Tribunal (the Tribunal) on May 8, 2013. The Appellant was granted leave to appeal on June 9, 2014.

[4] The hearing of this appeal was conducted on the written record, after both parties had the opportunity to file written submissions. The Respondent filed written submissions with the Tribunal on July 22, 2014. The Appellant did not file any written submissions.

THE LAW

[5] Subsection 58(1) of the *Department of Employment and Social Development Act* (DESD Act) states that the only grounds of appeal are the following:

a) The General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

b) The General Division erred in law in making its decision, whether or not the error appears on the face of the record; or

c) The General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[6] Subsection 59(1) of the DESD Act provides that the Appeal Division may dismiss the appeal, give the decision that the General Division should have given, refer the matter back to the General Division for reconsideration in accordance with any directions that the

Appeal Division considers appropriate or confirm, rescind or vary the decision of the General Division in whole or in part.

ISSUE

[7] The Tribunal must decide whether the Review Tribunal decision was reasonable.

SUBMISSIONS

[8] The Appellant made no submissions apart from what was contained in his leave to appeal application.

[9] The Respondent submitted that the appeal should be dismissed because:

a) The standard of review for decisions made by a Review Tribunal is that of reasonableness;

b) The decision of the Review Tribunal was reasonable.

ANALYSIS

Standard of Review

[10] The leading case on what standard should be used to review a tribunal decision is *Dunsmuir v. New Brunswick*, 2008 SCC 9. In that case, the Supreme Court of Canada concluded that when reviewing a decision on questions of fact, mixed law and fact, and questions of law related to the tribunal's own statute, the standard of review is reasonableness; that is, whether the decision of the tribunal is within the range of possible, acceptable outcomes which are defensible on the facts and the law. I accept the Respondent's detailed submissions on this issue as a correct statement of the law.

[11] I am satisfied that the standard of review in this case is reasonableness.

Application of Standard of Review to this Case

[12] In this case, the Appellant argued in his application for leave to appeal that the Review Tribunal erred by not considering his medical condition of irritable bowel syndrome alone or in concert with his other conditions in determining whether he was disabled under the *Canada Pension Plan* (CPP). The Respondent argued in written submissions for the appeal that the Review Tribunal did consider this condition as it was mentioned in its description of the evidence produced at that hearing. In addition, this medical condition was not mentioned in the application for CPP disability benefits, or in the medical report that accompanied the application.

[13] The Appellant also argued in his application for leave to appeal that the Review Tribunal erred by not applying the law set out in various court decisions to the facts of this case. The Respondent argued in its submissions for this appeal that no such error was made, and that the decision of the Review Tribunal was reasonable.

[14] In *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, (2011 SCC 62) the Supreme Court of Canada held that a reviewing court should not undertake separate analyses of a tribunal's reasons and the result. Rather the review of an administrative decision is an organic exercise in which the reasons of the tribunal must be read together with the outcome and serve the purpose of showing whether the result falls within the range of possible acceptable outcomes as required under the reasonableness standard of review. The Court further stated that while the reasons may not include all the details the reviewing judge would have preferred, it does not affect the validity of either the reasons or the result under the reasonableness analysis.

[15] In this case, the Review Tribunal decision refers to irritable bowel syndrome in its summary of the evidence. The Review Tribunal decision also sets out clearly the Appellant's symptoms, his treatment, and the date of diagnosis many other medical conditions. The decision also states that the Appellant did not present to his family physician with any symptoms until after his Minimum Qualifying Period had ended although the Appellant testified that he had symptoms of irritable bowel syndrome for many

years prior to that. I find that the irritable bowel syndrome was considered by the Review Tribunal, along with the other medical conditions, in reaching its conclusion.

[16] The Review Tribunal decision also set out the law that was applicable to the matter before it in some detail. While it did not specifically apply the legal principles set out in each decision cited to the particular facts of this case, it is clear that the Review Tribunal considered and applied the relevant law to the facts before it.

[17] When the decision is examined as a whole I find that the relevant evidence and law were set out clearly. The analysis of this information was reasonable, and the result was within the range of acceptable outcomes that are defensible in law and on the facts based on the information before the Review Tribunal.

CONCLUSION

[18] The appeal is therefore dismissed for these reasons.

Valerie Hazlett Parker
Member, Appeal Division