

Citation: *G. G. v. Minister of Employment and Social Development*, 2015 SSTAD 376

Appeal No: AD-15-110

BETWEEN:

G. G.

Appellant

and

**Minister of Employment and Social Development
(formerly Minister of Human Resources and Skills Development)**

Respondent

**SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal Decision**

SOCIAL SECURITY TRIBUNAL MEMBER: Valerie Hazlett Parker

DATE OF DECISION: March 19, 2015

DECISION

[1] Leave to appeal to the Appeal Division of the Social Security Tribunal is refused.

INTRODUCTION

[2] The Appellant applied for a *Canada Pension Plan* disability pension, and claimed that he was disabled by a number of medical conditions. The Respondent denied his claim initially and after reconsideration. The Appellant appealed to the Social Security Tribunal. The General Division of the Tribunal held a hearing and on December 12, 2014 dismissed the Appellant's claim.

[3] The Appellant sought leave to appeal from the General Division decision. He argued that he was not employed after the Minimum Qualifying Period because of his multiple health conditions, that his income was not significant after this time, and that the General Division decision answered questions that had not been asked of him at the hearing. He also cited section 58 of the *Department of Employment and Social Development Act*.

[4] The Respondent filed no submissions.

ANALYSIS

[5] The Courts have clearly stated that in order to be granted leave to appeal, the Applicant must present some arguable ground upon which the proposed appeal might succeed: *Kerth v. Canada (Minister of Development)*, [1999] FCJ No. 1252 (FC). The Federal Court of Appeal has also found that an arguable case at law is akin to determining whether legally an applicant has a reasonable chance of success: *Canada (Minister of Human Resources Development) v. Hogervorst*, 2007 FCA 4, *Fancy v. Canada (Attorney General)*, 2010 FCA 63.

[6] The *Department of Employment and Social Development Act* governs the operation of this Tribunal. Section 58 of the *Act* sets out the only grounds of appeal that may be considered to grant leave to appeal a decision of the General Division (the section is set out in the Appendix to this decision). Therefore, I must decide if the Appellant has presented a

ground of appeal under section 58 of the *Act* that has a reasonable chance of success on appeal.

[7] The Appellant submitted that he was unable to work due to his health. While this may be so, it does not point to any error made by the General Division, or any breach of the principles of natural justice. Therefore, it is not a ground of appeal that has a reasonable chance of success on appeal.

[8] The Appellant also argued that his income after the Minimum Qualifying Period was not significant, and not as high as it was before this time. He did not contend that the General Division made any error in this regard. The General Division decision made findings of fact regarding the Appellant's income and set out the evidentiary basis for this. Hence, this is not a ground of appeal that has a reasonable chance of success on appeal.

[9] Further, the Appellant argued that the General Division decision answered questions that had not been asked of him. He did not set out what these questions were or how they had been answered. The General Division decision summarized the oral and written evidence that was before it, and weighed this evidence to make its decision. This contention by the Appellant does not allege that the General Division decision contains any error. It is also not a ground of appeal that has a reasonable chance of success on appeal.

[10] Finally, the Appellant repeated the terms of section 58 of the *Act*. The repetition of the legislation does not point to any error made in the General Division decision, nor to any breach of natural justice. It is also therefore not a ground of appeal that has a reasonable chance of success on appeal.

CONCLUSION

[11] The Application is refused as the Appellant has not presented any ground of appeal that has a reasonable chance of success on appeal.

Valerie Hazlett Parker
Member, Appeal Division

APPENDIX

Department of Employment and Social Development Act

58. (1) The only grounds of appeal are that

- (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.

58. (2) Leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success.