

Citation: *N. N. v. Minister of Employment and Social Development*, 2015 SSTAD 424

Appeal No. AD-15-70

BETWEEN:

N. N.

Applicant

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: Hazelyn Ross

DATE OF DECISION: March 26, 2015

DECISION

[1] The Social Security Tribunal (the “Tribunal”) refuses leave to appeal.

BACKGROUND

[2] On January 28, 2015 the General Division of the Tribunal issued a decision in the Applicant’s appeal of a decision to refuse him a *Canada Pension Plan* (“CPP”), disability pension. The General Division decision found that the Applicant did not have a severe and prolonged disability. Hence, he did not qualify for a CPP disability pension.

ISSUE

[3] The following issues are before the Tribunal:

- a. Is there a proper application for leave to appeal before the Tribunal? And;
- b. If it is found that there is a proper application before the Tribunal, does the appeal have a reasonable chance of success?

THE LAW

[4] Ss. 56(1) of the *Department of Employment and Social Development* (“DESD”), *Act* provides that an appeal to the Appeal Division may only be brought if leave to appeal is granted. Ss. 58(3) mandates that the Appeal Division must either “grant or refuse leave to appeal.” The form and content of an Application for Leave to Appeal is prescribed by and set out in s. 40 of the *Social Security Tribunal Regulations*.¹ All recipients of Tribunal decisions are directed to the Tribunal’s website for additional information on how to proceed in the event they are dissatisfied with a decision.

[5] S. 40 mandates that an application for leave to appeal must be in the form set out by the Tribunal on its website. The Applicant has not complied with this requirement. Instead, he submitted a copy of the decision, together with a copy of the Tribunal’s covering letter and a package of documents that included a library guide, copies of medical documents and courier

¹ SOR/2013-60 effective April 1, 2013, as amended by S.C. 2013, c. 40, s. 236

receipts. None of these documents provide the information that s. 40 requires. Accordingly, the Tribunal is left with no alternative but to find that there is not a proper application before it that it can consider.

CONCLUSION

[6] The Applicant purports to request Leave to Appeal the decision of the General Division issued on January 28, 2015 that denied his appeal against a refusal of a *Canada Pension Plan* disability pension. The Application is not in the form prescribed by the Tribunal. Furthermore, the materials provided by the Applicant do not allow the Tribunal to glean the information required by s. 40 of the Tribunal regulations. Accordingly, there is not a proper Application for Leave to Appeal before the Tribunal and Leave is refused.

Hazelyn Ross
Member, Appeal Division