

Citation: *R. F. v. Minister of Employment and Social Development*, 2015 SSTAD 425

Appeal No: AD-15-87

BETWEEN:

R. F.

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 26, 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 as a result of injuries from a motor vehicle accident that occurred in 1998. The Respondent denied his claim initially and after reconsideration. The Appellant appealed to the Office of the Commissioner of Review Tribunals. The matter was transferred to the General Division of the Social Security Tribunal pursuant to the *Jobs, Growth and Long-term Prosperity Act* on April 1, 2013. The General Division held a hearing and on February 6, 2015 dismissed the Appellant's claim.

[3] The Appellant sought leave to appeal to the Appeal Division of the Social Security Tribunal. To support this he submitted that he had to attend physiotherapy in another city, that he was unable to work, that he required a cane to walk and that he was in receipt of provincial disability benefits.

[4] The Respondent filed no submissions.

ANALYSIS

[5] 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 41, *Fancy v. 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 (see the Appendix to

this decision). I must therefore decide if the Appellant has presented any ground of appeal that has a reasonable chance of success on appeal.

[7] The Appellant submitted that he continues to have difficulty walking, required physiotherapy and that he was unable to return to work. He is also in receipt of provincial disability benefits. These submissions do not point to any error of fact or of law made by the General Division or to any breach of the principles of natural justice. Therefore, they are not grounds of appeal that can be considered under the *Act*, and do not have a reasonable chance of success on appeal.

CONCLUSION

[8] Leave to appeal is refused because the Appellant has not presented a 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.