

Citation: *S. J. v. Minister of Employment and Social Development*, 2015 SSTAD 758

Appeal No. AD-15-290

BETWEEN:

S. J.

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: June 19, 2015

DECISION

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

INTRODUCTION

[2] On February 23, 2015, the General Division of the Social Security Tribunal of Canada, (the Tribunal), issued its decision refusing the Applicant's appeal of a denial of payment of a *Canada Pension Plan*, (CPP), disability pension. The Applicant seeks leave to appeal this decision, (the Application).

ISSUE

[3] The Tribunal must decide if the appeal would have a reasonable chance of success.

THE LAW

[4] The grant of leave to appeal a General Division decision is governed by sections 56 to 59 of the *Department of Employment and Social Development Act*, (DESD Act). To grant leave the Appeal Division must be satisfied that the appeal would have a reasonable chance of success. The Federal Court of Appeal has found that an arguable case at law is akin to whether, legally, an applicant has a reasonable chance of success: *Canada (Minister of Human Resources Development) v. Hogervorst*, 2007 FCA 41 and *Fancy v. Canada (Attorney General)*, 2010 FCA 63.

ANALYSIS

[5] At this first application stage of the appeal process, an applicant need only raise an arguable case. The threshold is lower than that which must be met on the hearing of the appeal on the merits. However, the Tribunal must first decide whether the reasons for the Application for leave to appeal relate to a ground of appeal and whether the appeal would have a reasonable chance of success.

[6] The General Division found that as of the Minimum Qualifying Period, (MQP) date of December 31, 2012, the Applicant did not meet the criteria for severe and prolonged disability.

[7] The Applicant's legal representative has submitted that based on the material to be presented on appeal; the appeal has a reasonable chance of success. No other reason is given for either the Application or the appeal.

[8] The Tribunal considered the Applicant's stated reasons for making the Application. Unfortunately, the Applicant's reasons do not relate to a ground of appeal as set out in the DESD Act. The Applicant has not shown how the General Division might have breached natural justice; erred in law; or made its decision in a perverse or capricious manner or without regard for the material before it. It is not sufficient for an Applicant for leave to state that the appeal would have a reasonable chance of success. The Tribunal cannot guess at the reasons that form the Application for leave to appeal. The Application is deficient in this respect and the Tribunal must refuse the Application as disclosing no grounds of appeal.

CONCLUSION

[9] The Application for Leave to Appeal is refused.

Hazelyn Ross

Member, Appeal Division