

Citation: *C. S. v. Minister of Employment and Social Development*, 2015 SSTAD 837

Date: July 03, 2015

File number: AD-15-308

APPEAL DIVISION

Between:

C. S.

Applicant

and

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

Respondent

Decision by: Hazelyn Ross, Member, Appeal Division

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On March 3, 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.

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; a reasonable chance of success being equated to an arguable case.

ANALYSIS

[5] At the 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] On his behalf, the Applicant's counsel submits that the General Division did not have all of the pertinent medical and other evidence before it when it made its decision. Counsel for the Applicant has provided additional medical documentation that he states would have had the

effect of causing the General Division to render a decision other than the one it did make. The Tribunal finds that this is not a true application for leave to appeal; rather it is a new facts application. In the context of the DESD Act, the Applicant is required to make the requisite application separately from an application for leave, the applicable statutory provision being section 66 of the DESD Act.

[7] In the circumstances, the Tribunal is not satisfied that the Appeal would have a reasonable chance of success.

CONCLUSION

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

Hazelyn Ross
Member, Appeal Division