

Citation: *S. B. v. Minister of Employment and Social Development*, 2015 SSTAD 1029

Date: August 28, 2015

File number: AD-15-915

APPEAL DIVISION

Between:

S. B.

Applicant

and

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

Respondent

Decision by: Valerie Hazlett Parker, Member, Appeal Division

REASONS AND DECISION

INTRODUCTION

[1] The Appellant applied for a *Canada Pension Plan* disability pension. She claimed that she was disabled as a result of injury, arthritis and surgeries to her arms and ribs. The Respondent denied her claim initially and after reconsideration. The Appellant appealed to the Office of the Commissioner of Review Tribunals. The appeal was transferred to the General Division of the Social Security Tribunal of Canada pursuant to the *Jobs, Growth and Long-term Prosperity Act*. The General Division held a teleconference hearing and on April 28, 2015 dismissed the appeal.

[2] The Applicant requested leave to appeal to the Appeal Division of the Tribunal. The grounds of appeal that she identified in the application requesting leave to appeal were that the General Division erred in law, and that it based its decision on an erroneous finding of fact that it made in a perverse or capricious manner, or without regard to the material before it.

[3] The Respondent filed no submissions.

ANALYSIS

[4] 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 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.

[5] 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).

[6] The Applicant quoted paragraphs 58(1)(b) and 58(1)(c) of the *Department of Employment and Social Development Act* as grounds of appeal. She did not identify what error

of law was to have been made. On reading the decision I can find no such error. In addition, the Applicant did not set out what factual errors were made, nor did she explain how they were to have been made in a perverse or capricious manner. She did not allege that the General Division decision did not consider any of the material before it. The mere recitation of the legislation is not a ground of appeal.

[7] The application for leave to appeal is therefore refused.

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.