

**Citation: *P. L. v. Minister of Employment and Social Development*, 2015 SSTAD 1105**

**Date: September 18, 2015**

**File number: AD-15-982**

**APPEAL DIVISION**

**Between:**

**P. L.**

**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 Applicant claimed that he was disabled as a result of injuries suffered in a fall on ice when he applied for a *Canada Pension Plan* disability pension. The Respondent denied his application initially and after reconsideration. The Applicant appealed the reconsideration decision 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* on April 1, 2013. The General Division scheduled a teleconference hearing. The Applicant did not attend the hearing. On June 5, 2015 the General Division dismissed the Applicant's appeal.

[2] The Applicant requested leave to appeal to the Appeal Division of the Tribunal. He set out a number of his physical symptoms, and argued that the General Division did not have all of the facts regarding his disability. He also wrote in his application requesting leave to appeal that living with the injuries from the accident was a complete change for himself and his family.

[3] The Respondent did not file any 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 can be considered to grant leave to appeal a decision of the General Division (this is set out in the Appendix to this decision). Hence, I must decide if the Applicant has presented a ground of appeal under the Act that may have a reasonable chance of success on appeal.

[6] In the application requesting leave to appeal the Applicant listed his physical symptoms. Simply listing physical symptoms does not point to any error made by the General Division, nor does it suggest that the principles of natural justice were not observed in this matter. The General Division decision referred to many of these symptoms. The presentation of this information is not a ground of appeal under section 58 of the Act.

[7] The Applicant also argued that he did not believe that the General Division had all of the facts of his condition. Again, this argument does not suggest that the General Division made an error of law, or that it did not observe the principles of natural justice. He did not explain how the General Division was to have 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. He did not suggest that the General Division ignored evidence, or did not consider the evidence that was before it. It is incumbent on a disability pension claimant to present all of the relevant evidence to the General Division. He cannot later complain that evidence was not considered if it was not presented at the hearing or filed with the Tribunal in advanced of the hearing date. Therefore, this argument is not a ground of appeal that has a reasonable chance of success on appeal.

[8] Finally, the Applicant stated that living with his injuries has been a complete change for him and his family. I accept this. This statement does not, however, point to any error made by the General Division. It is not a ground of appeal upon which leave to appeal can be granted.

## **CONCLUSION**

[9] The Application is refused because the Applicant has not presented a ground of appeal under the Act that may have 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.