



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. T. v. Minister of Employment and Social Development*, 2017 SSTADIS 534

Tribunal File Number: AD-17-190

BETWEEN:

C. T.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Kate Sellar

Date of Decision: October 13, 2017

REASONS AND DECISION

INTRODUCTION

[1] On February 17, 2017, the General Division of the Social Security Tribunal of Canada (Tribunal) determined that a disability pension under the *Canada Pension Plan* was not payable. The General Division concluded that the Applicant did not show, on a balance of probabilities, that he was incapable regularly of pursuing any substantially gainful occupation by his minimum qualifying period (MQP) of December 31, 2012 (para. 35).

BACKGROUND

[2] The Tribunal received the Applicant's application requesting leave to appeal (Application) on March 1, 2017. On March 7, 2017, the Tribunal wrote to the Applicant acknowledging receipt of his Application but explaining that it was incomplete. The Tribunal requested that the Applicant provide the reasons for the appeal and explain why the appeal has a reasonable chance of success. The Tribunal received the Applicant's response on March 17, 2017. On March 22, 2017, the Tribunal wrote to the Applicant again, requesting the same information it had requested on March 7, 2017. On April 7, 2017, the Applicant provided the Tribunal with a response, and he provided some further information on April 19, 2017. The Tribunal wrote to the Applicant a final time on April 27, 2017, referring again to the need to receive the missing information outlined in the Tribunal's initial letter of March 7, 2017. The Tribunal received the Applicant's response on May 10, 2017.

ISSUE

[3] The Appeal Division must decide whether the appeal has a reasonable chance of success.

THE LAW

Leave to Appeal

[4] According to ss. 56(1) and 58(3) of the *Department of Employment and Social Development Act* (DESDA), an appeal to the Appeal Division may be brought only if the Appeal Division grants leave to appeal. The Appeal Division must either grant or refuse leave to appeal.

[5] Subsection 58(2) of the DESDA provides that the Appeal Division refuses to grant leave to appeal if it is satisfied that the appeal has no reasonable chance of success. An arguable case at law is a case with a reasonable chance of success [see *Fancy v. Canada (Attorney General)*, 2010 FCA 63].

Grounds of Appeal

[6] According to ss. 58(1) of the DESDA, the only grounds of appeal are the following:

- (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.

SUBMISSIONS

[7] The Applicant indicates that he relies on ss. 58(1)(a) and 58(1)(c) of the DESDA in his Application. He argues that the Tribunal made an error in determining that he does not have a severe disability for the purpose of receiving a disability pension.

ANALYSIS

[8] Although the Applicant expressly relies on two grounds for his appeal, he does not explain how, in his view, the General Division erred in rendering its decision. The Applicant is unrepresented in these proceedings, and the Tribunal has provided him with multiple opportunities, as outlined above, to provide submissions in support of his Application [see *Bossé v. Canada (Attorney General)*, 2015 FC 1142]. Although the Applicant responded to the Tribunal's requests for information in support of his Application, he simply provided general statements to the effect that he should qualify for the disability pension and the decision that denies him the pension is therefore in error.

[9] The Appeal Division should go beyond a mechanistic review of the grounds of appeal [see *Karadeolian v. Canada (Attorney General)*, 2016 FC 615]. The Appeal Division examined the record and is satisfied that the General Division did not overlook or misconstrue any of the evidence.

CONCLUSION

[10] The application for leave to appeal is refused.

Kate Sellar
Member, Appeal Division