



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *W. G. v. Minister of Employment and Social Development*, 2017 SSTADIS 575

Tribunal File Number: AD-17-599

BETWEEN:

**W. G.**

Applicant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: October 30, 2017

## REASONS AND DECISION

### INTRODUCTION

[1] On May 29, 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 Applicant filed an application (Application) for leave to appeal with the Tribunal's Appeal Division on September 1, 2017.

### ANALYSIS

[2] The *Department of Employment and Social Development Act* (DESD Act) governs the operations of this Tribunal. According to subsections 56(1) and 58(3) of the DESD Act, an appeal to the Appeal Division may be brought only if leave to appeal is granted, and the Appeal Division must either grant or refuse leave to appeal.

[3] The only grounds of appeal available under the DESD Act 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.

[4] Subsection 58(2) of the DESD Act provides that leave to appeal is to be refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success.

[5] I must therefore decide whether the Applicant has presented a ground of appeal under the DESD Act that may have a reasonable chance of success on appeal.

[6] The Applicant argues that leave to appeal should be granted because her family doctor wrote a letter on February 18, 2016, that corroborated Dr. Hahn's conclusion that she was disabled, and that the General Division should have considered this in making its decision. I

have reviewed the written record, and this letter was not filed with the Tribunal before the General Division made its decision. The General Division therefore made no error when it did not consider this letter.

[7] The Applicant included this letter with her application for leave to appeal. The Tribunal's Appeal Division cannot consider new evidence; it is for the General Division to consider and weigh evidence: *Gaudet v. Canada (Attorney General)*, 2013 FCA 254. The presentation of new evidence is not a ground of appeal under section 58 of the DESD Act.

[8] The Applicant also contends that she has few transferrable skills, is not able to use a computer, and was 61 years of age at the relevant time. The General Division considered this in reaching its decision. It made no error in doing so. This ground of appeal also does not have a reasonable chance of success on appeal.

[9] I have reviewed the documentary record and am also satisfied that the General Division did not overlook or misconstrue any important evidence. The decision summarizes the Applicant's work and medical history, treatment for her ankle and leg issues and hepatitis C, and reasons for not working.

## **CONCLUSION**

[10] The application for leave to appeal is refused because the Applicant did not present a ground of appeal that might have a reasonable chance of success on appeal.

*Valerie Hazlett Parker*  
Member, Appeal Division