



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. M. v. Minister of Employment and Social Development*, 2017 SSTADIS 587

Tribunal File Number: AD-17-546

BETWEEN:

J. M.

Applicant

and

Minister of Employment and Social Development

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: November 1, 2017

REASONS AND DECISION

INTRODUCTION

[1] On May 4, 2017, the General Division of the Social Security Tribunal of Canada determined that a Canada Pension Plan disability pension was not payable. The Applicant filed an application for leave to appeal with the Tribunal's Appeal Division on August 1, 2017.

ANALYSIS

[2] The *Department of Employment and Social Development Act* (DESD Act) governs the operation 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 to the Appeal Division 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 determine whether the Applicant has presented a ground of appeal under subsection 58(1) of the DESD Act that may have a reasonable chance of success on appeal.

[6] The Applicant contends that the General Division member who heard his case was not prepared for the hearing and did not know that the basis of his disability claim was the injuries he sustained in a motor vehicle accident, not that he had undergone bypass surgery.

[7] I have reviewed the General Division decision and the written record. The decision thoroughly summarized the evidence, both written and oral. The decision considered that the Applicant had undergone bypass surgery, that he was involved in a vehicle accident, which resulted in ongoing headaches, that he suffered from other pain in his shoulder, neck and back, and that he has limitations from knee issues. In addition, the decision considered in detail the Applicant's struggles with mental illness, the treatment the Applicant had taken for this and the fact that he had declined other treatments. The General Division assigned weight to the evidence and reached a decision. I am satisfied that the General Division did not overlook or misconstrue any important evidence.

[8] It is for the General Division to receive all of the evidence from the parties, both oral and written, to assign weight to the evidence, and to make a decision based on the law and the facts. The General Division did this. The leave to appeal application discloses no ground of appeal under subsection 58(1) of the DESD Act.

CONCLUSION

[9] The application for leave to appeal is refused for these reasons.

Valerie Hazlett Parker
Member, Appeal Division