



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. L. v. Minister of Employment and Social Development*, 2017 SSTADIS 603

Tribunal File Number: AD-17-561

BETWEEN:

C. L.

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 2, 2017

REASONS AND DECISION

INTRODUCTION

[1] On April 30, 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 for leave to appeal with the Tribunal's Appeal Division on August 6, 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 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 the General Division decision was based on an error of law. The decision relies on another decision of this Tribunal, *L.A. v. Minister of Employment and Social Development*, 2016 SSTGDIS 82. According to the General Division, the *L.A.* decision concluded that a claimant cannot be found to be disabled based on the condition of another person, or their caregiving responsibilities. In the Applicant's case, the General Division concluded that as the Applicant's conditions were tied to her role as a caregiver, she could not be found disabled under the *Canada Pension Plan*. The Applicant submits that *L.A.* was incorrect in law as it imports an element of causation for disability into the legal test that the *Canada Pension Plan* does not require. This ground of appeal raises an issue regarding the interpretation of the relevant provisions of the *Canada Pension Plan* and the associated case law. The decision may contain an error of law, so this ground of appeal has a reasonable chance of success on appeal.

[7] The Applicant also argues that the General Division decision was based on erroneous findings of fact contrary to the DESD Act. In *Mette v. Canada (Attorney General)*, 2016 FCA 276, the Federal Court of Appeal indicated that it is not necessary for the Appeal Division to address all the grounds of appeal an applicant raises. Because I have found that one ground of appeal has a reasonable chance of success, I have not considered the remaining grounds of appeal that the Applicant presented.

CONCLUSION

[8] The application for leave to appeal is granted. The parties are not restricted to argument on the ground of appeal considered in this decision.

[9] This decision to grant leave to appeal does not presume the result of the appeal on the merits of the case.

Valerie Hazlett Parker
Member, Appeal Division