



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *J. B. v. Minister of Employment and Social Development*, 2017 SSTADIS 754

Tribunal File Number: AD-16-994

BETWEEN:

**J. B.**

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: December 20, 2017

## REASONS AND DECISION

### INTRODUCTION

[1] The Applicant applied for a Canada Pension Plan disability pension. She claimed that she was disabled by chronic pain and associated symptoms, including memory and concentration problems. The Respondent refused the application initially and on reconsideration. The Applicant appealed the reconsideration decision to the Social Security Tribunal of Canada (Tribunal). On May 10, 2016, the Tribunal's General Division decided that the Applicant was not disabled under the *Canada Pension Plan*. The Applicant filed an application for leave to appeal (Application) with the Tribunal's Appeal Division on August 15, 2016. The Application did not identify any grounds of appeal under the *Department of Employment and Social Development Act*, so on September 6, 2017, the Tribunal wrote to the Applicant and requested this information by October 3, 2017. The Applicant did not respond to this letter.

### 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 under the DESD Act are set out in subsection 58(1), namely, that the General Division failed to observe a principle of natural justice, made an error of law, or based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it. Subsection 58(2) states that leave to appeal is to be refused if the appeal has no reasonable chance of success.

[4] The Applicant wrote that she was physically uncomfortable and emotionally distressed at the hearing. She had brought with her further medical evidence, which she forgot to file with the Tribunal. She specifically wrote that when asked if she had anything to add at the hearing, she "blanked" and did not mention this additional evidence. She requests leave to appeal so that she can have this evidence considered.

[5] This Tribunal has only the authority granted to it in the DESD Act, so it can grant leave to appeal only if grounds of appeal under subsection 58(1) are presented. The failure to file some evidence with the Tribunal is not a ground of appeal under the legislation. There is no indication that the Applicant was prevented from filing this information; in fact, she states that she was given a specific opportunity to do so at the hearing. Thus, there is no indication that the General Division failed to observe a principle of natural justice.

[6] I have reviewed the General Division decision and the written record. I am satisfied that the General Division did not overlook or misconstrue any important evidence. I am also satisfied that it made no error in law.

### **CONCLUSION**

[7] The Application is refused as the Applicant did not present a ground of appeal under the DESD Act.

Valerie Hazlett Parker  
Member, Appeal Division