



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. B. v. Minister of Employment and Social Development*, 2018 SST 123

Tribunal File Number: AD-17-594

BETWEEN:

**A. B.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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

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DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: February 5, 2018

## DECISION AND REASONS

### DECISION

[1] The appeal is dismissed.

### OVERVIEW

[2] A. B., the (Claimant), completed Grade 10 and a mechanic's course. He worked as a mechanic until January 2013, when he stopped due to pain in his legs. He applied for a Canada Pension Plan disability pension. The Minister of Employment and Social Development (Minister) refused his application. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed his appeal. The appeal to the Appeal Division is dismissed because the General Division made no errors that warrant intervention by the Appeal Division.

### PRELIMINARY MATTER: DECISION BASED ON THE WRITTEN RECORD

[3] This appeal was decided on the basis of the written record after considering the following:

- a) The legal issues to be decided are straightforward;
- b) The parties were given an opportunity to provide written submissions and did not object to the matter proceeding on this basis; and
- c) The *Social Security Tribunal Regulations* require that proceedings be conducted as informally and quickly as the circumstances and the considerations of fairness and natural justice permit.<sup>1</sup>

### ISSUES

[4] The issues to be decided in this appeal are as follows:

1. Is the Claimant permitted to file new evidence at the appeal?

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<sup>1</sup> Section 3 of the *Social Security Tribunal Regulations*.

2. Were the General Division's reasons insufficient because it did not grapple with contradictory medical evidence?

## **ANALYSIS**

[5] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides for only three narrow grounds of appeal, 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.<sup>2</sup> The General Division decision must be reviewed in this context.

### **Issue 1: New Evidence is Not Permitted on Appeal**

[6] The Claimant filed two new medical reports<sup>3</sup> to support his appeal. The grounds of appeal set out in the DESD Act do not include the filing of new evidence. The Federal Court has also stated that the filing of evidence, in most appeals, is not permitted.<sup>4</sup> This evidence does not point to any error made by the General Division. The new evidence cannot be considered, and the appeal must fail on this basis.

### **Issue 2: The General Division's Reasons for Decision are Sufficient**

[7] The Supreme Court of Canada teaches that when a decision maker renders a decision, the reasons, when read as a whole and in the context of the record, must be sufficient to permit the parties to understand why it made its decision.<sup>5</sup> In this case, I am satisfied, on balance, that the General Division's reasons are sufficient.

[8] The Claimant takes issue with the General Division's treatment of two reports from Dr. McLaughlin. The decision summarizes all of the medical evidence that was presented, including both of his reports. The 2014 report states that the Claimant's prognosis for returning to work as a mechanic was poor. The 2016 report states that the Claimant was permanently

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<sup>2</sup> Subsection 58(1) of the DESD Act.

<sup>3</sup> A letter from Dr. Smith dated August 3, 2017, and a letter from Dr. McLaughlin dated September 19, 2017.

<sup>4</sup> *Canada (Attorney General) v. O'Keefe*, 2016 FC 503.

<sup>5</sup> *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62.

disabled and unable to return to any type of work. The General Division concluded<sup>6</sup> that Dr. McLaughlin did not preclude the Claimant from work, other than as a mechanic. The evidentiary basis for this conclusion is not clear. The decision does not explain why the General Division ignored or gave no weight to the 2016 report, or why it found the 2014 report to be more persuasive. The Minister argues that the General Division must have given greater weight to all of the reports dated prior to the Claimant's minimum qualifying period (December 31, 2015) than those dated after this date because that is how the evidence is organized in the decision. The decision does not indicate, however, that this is the case. Therefore, it is unclear why the General Division concluded that Dr. McLaughlin did not preclude the Claimant from returning to work, except as a mechanic. The General Division's reasons on this issue are consequently insufficient.

[9] However, the failure to provide sufficient reasons for a decision is not a stand-alone basis for setting aside a decision. The issue should be examined within the purview of whether the reasoning/outcome of the decision is reasonable.<sup>7</sup> The General Division's reasoning and the outcome of the decision are reasonable when considered as a whole. The General Division examined all of the written evidence and testimony. It considered the evidence and determined that the Claimant had some physical limitations. Although he could not stand for lengthy periods, he could sit for two hours and drive for at least this long. He could communicate well in English. The Claimant's doctors had recommended weight loss, exercise, and medication. The medication the Claimant tried was helpful to some degree and he had lost some weight, but he did not follow the exercise recommendations. Therefore, the General Division concluded that the Claimant was not disabled under the *Canada Pension Plan*. This conclusion is based on a reasonable application of the law to the facts.

[10] I am satisfied that the General Division did not overlook or misconstrue any important facts, that it observed the principles of natural justice, and that it made no errors in law.

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<sup>6</sup> Paragraph 28 of the decision.

<sup>7</sup> *Ramlochan v. Canada (Attorney General)*, Docket T-148-13.

## CONCLUSION

[11] Although the General Division's reasons are insufficient in one aspect, when read as a whole and in the context of the record and the result, the General Division decision is reasonable and defensible on the facts and the law.

[12] The appeal is therefore dismissed.

Valerie Hazlett Parker  
Member, Appeal Division

METHOD OF PROCEEDING:	On the written record
APPEARANCES:	A. B., Appellant  Penny Brady, Counsel for the Respondent