



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. M. v. Minister of Employment and Social Development*, 2018 SST 222

Tribunal File Number: AD-18-127

BETWEEN:

A. 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: March 7, 2018

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] A. M. (Claimant) was born in India. She moved to Canada where she completed her education and entered the workforce. She worked in a factory and in retail settings. After she stopped working, she applied for a Canada Pension Plan disability pension and claimed that she was disabled by a number of conditions, including colitis and mental illness. The Minister of Employment and Social Development refused the application. The Claimant appealed this decision to the Social Security Tribunal. The Tribunal's General Division dismissed the appeal. Leave to appeal is refused because the Claimant failed to present a ground of appeal that may have a reasonable chance of success on appeal.

ISSUE

[3] Might there be a reasonable chance that the appeal will succeed because the General Division erred in one of the following ways:

- a) by failing to consider the Claimant's mental illness;
- b) by failing to consider the combined effect of all of her medical conditions; or
- c) by failing to conduct a "real world" analysis of the Claimant's circumstances?

ANALYSIS

[4] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides the only grounds of appeal that can be considered, namely, that the General Division failed to observe a principle of natural justice or made a jurisdictional error, made an error in 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.¹ In addition, leave to appeal is to be refused if the appeal has no reasonable chance of success.² The Claimant's grounds of appeal must be considered in this context.

Issue 1: Might the General Division have failed to consider the Claimant's mental health?

[5] The Claimant has a number of diagnosed medical conditions, including depression. She received treatment for this from a psychiatrist. The General Division decision summarized the psychiatrist's reports³ and analyzed this evidence. The General Division concludes that the psychiatrist's dramatic findings regarding the Claimant's mental health were not supported by her family doctor,⁴ and that she took a low dose of medication for this condition, which did not support the claim that it was severe.⁵ From this it is clear that the General Division considered the Claimant's mental health. This ground of appeal therefore does not have a reasonable chance of success on appeal.

Issue 2: Might the General Division have failed to consider the combined impact of the Claimant's conditions?

[6] The Federal Court of Appeal teaches that when deciding whether a claimant is disabled, their condition must be assessed in totality, considering all possible impairments.⁶ This is set out in the decision.⁷ In it, the General Division considers each of the Claimant's conditions, as well as her overall functional limitations which resulted from these conditions. The General Division states that the Claimant was able to complete a retraining program in 2011 and worked for 10 months in 2014. The Claimant also provided no evidence that she could not continue to work or try alternate work because of her medical conditions.⁸ From this it is clear that the General Division considered both the individual and combined effects of the Claimant's conditions on her capacity regularly to pursue any substantially gainful occupation. This ground of appeal does not have a reasonable chance of success on appeal.

¹ Subsection 58(1) of the DESD Act.

² Subsection 58(2) of the DESD Act.

³ Paragraphs 15 through 17 of the decision.

⁴ Paragraph 52 of the decision.

⁵ Paragraph 53 of the decision.

⁶ *Bungay v. Canada (Attorney General)*, 2011 FCA 47.

⁷ Paragraph 54 of the decision.

⁸ Paragraph 58 of the decision.

Issue 3: Might the General Division have failed to conduct a “real world” analysis?

[7] The Federal Court of Appeal also instructs that when deciding whether a claimant is disabled, their personal circumstances, including age, education, language skills, and work and life experience, must be taken into consideration; this is a “real world” analysis.⁹ The failure to do this is an error in law.¹⁰ The General Division set out this principle and applied it to the facts before it.¹¹ It concluded that, based on the Claimant’s age, reasonably steady work history, ability to complete a retraining program and only intermittent need for an interpreter during the hearing, her personal characteristics would not have prevented her from finding a job in the competitive marketplace. The General Division conducted a “real world” analysis, so this ground of appeal also does not have a reasonable chance of success on appeal.

[8] 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 information. There is no indication that it erred in law or failed to observe the principles of natural justice.

CONCLUSION

[9] Leave to appeal is therefore refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	Jaswinder Johal, for the Applicant
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⁹ *Villani v. Canada (Attorney General)*, 2001 FCA 248.

¹⁰ *Garrett v. Canada (Minister of Human Resources Development)*, 2005 FCA 84.

¹¹ Paragraph 60 of the decision.