



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. N. v Minister of Employment and Social Development*, 2019 SST 197

Tribunal File Number: AD-18-890

BETWEEN:

L. N.

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 13, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] L. N. (Claimant) completed high school and one year of law school in Serbia. She moved to Canada as an adult, attended English as a Second Language classes, and became fluent in English. She also obtained certification in office administration. She worked until she could no longer do so because of ongoing pain that resulted from a car accident. The Claimant applied for a Canada Pension Plan disability pension and claimed that she was disabled by pain throughout her body, including in her back, shoulders, trunk, and knees.

[3] The Minister of Employment and Social Development refused the application. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division held a hearing and dismissed the appeal because it found that the Claimant did not have a severe disability at or before the end of the minimum qualifying period (the date by which a claimant must be found to be disabled to receive the disability pension). Leave to appeal the General Division's decision is refused because she has not presented a ground of appeal under the *Department of Employment and Social Development Act* (DESD Act) on which the appeal has a reasonable chance of success.

ISSUE

[4] Does the appeal have a reasonable chance of success because the General Division based its decision on an erroneous finding of fact?

ANALYSIS

[5] The DESD Act governs the Tribunal's operation. It sets out only three grounds of appeal that I can consider. They are 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 In the application for leave to appeal, the Claimant requests another opportunity to speak to the Tribunal and explains that she has pain at all times. The Tribunal wrote to the Claimant, explained the only grounds of appeal that the Tribunal can consider, and asked the Claimant to provide such grounds of appeal. The Claimant responded by letter and provided additional medical documents.

[6] The Claimant's request for another opportunity to speak to the Tribunal does not point to any error by the General Division. It is not a ground of appeal, so leave to appeal cannot be granted on this basis.

[7] The presentation of additional medical evidence is also not a ground of appeal under the DESD Act. Further, the reports do not provide information about the Claimant's condition at the end of the minimum qualifying period. The General Division decision states that it had to consider her condition only at that time (December 2012) and not afterward.³ This is correct.

[8] The Claimant argues that the General Division based its decision on an erroneous finding of fact. She states that the General Division erred when it stated that she began to take medication for high blood pressure in 2016⁴ because she started taking medication for that condition in 2011 and it was changed in 2016. However, the decision was not based on when the Claimant started to take that medication. Therefore, the presentation of this evidence is not a ground of appeal on which the appeal has a reasonable chance of success.

[9] The Claimant also points out that the General Division decision contains an error when it states that the Claimant had chiropractic treatment from March to May 2011 because she received chiropractic therapy from February to May 2011 and physiotherapy for a couple of weeks in 2011 until she had to stop because of her high blood pressure. She also states that she could not continue these treatments because she could not pay for them. Again, the decision is

¹ DESD Act, s 58(1).

² DESD Act, s 58(2).

³ General Division decision at para 22.

⁴ *Ibid.* at para 10.

not based on exactly when she attended for treatment, so leave to appeal cannot be granted on this basis.

[10] I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is also no suggestion that the General Division made an error in law or that it failed to observe a principle of natural justice.

CONCLUSION

[11] Leave to appeal must be refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	L. N., self-represented
-----------------	-------------------------