



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. D. v Minister of Employment and Social Development*, 2019 SST 657

Tribunal File Number: AD-19-375

BETWEEN:

T. D.

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: July 11, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] T. D. (Claimant) last worked in a transfer station office in 2013. She has physical limitations from Parkinson's disease. She applied for a Canada Pension Plan disability pension and claimed that she was disabled by this disease and other conditions. The Minister of Employment and Social Development refused the application.

[3] The Claimant appealed the Minister's decision to the Tribunal. The Tribunal's General Division dismissed the appeal because it decided that the Claimant did not have a severe disability on or before her minimum qualifying period (the date by which a claimant must be found to be disabled to receive the disability pension). Leave to appeal this decision to the Tribunal's Appeal Division is dismissed 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.

PRELIMINARY MATTER

[4] In the Application to the Appeal Division the Claimant requested leave to appeal because she was not able to produce a medical report from her neurologist. The Tribunal wrote to the Claimant and explained what grounds of appeal the Appeal Division can consider and asked that she provide grounds of appeal under the DESD Act. The Claimant did not respond to this letter.

ISSUE

[5] Does the appeal have a reasonable chance of success because the General Division based its decision on an erroneous finding of fact under the DESD Act, made an error in law or failed to observe a principle of natural justice?

ANALYSIS

[6] The DESD Act governs the Tribunal's operation. It provides rules for granting leave to appeal to the Appeal Division. It states that the Appeal Division can only consider three grounds of appeal. They are that the General Division failed to observe a principle of natural justice, 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 Therefore, to be granted leave to appeal there must be at least one ground of appeal under the DESD Act upon which the appeal has a reasonable chance of success.

[7] The Claimant's ground of appeal is that she was not able to obtain a letter from her neurologist because she was on maternity leave. This is unfortunate. However, the inability to obtain some evidence is not a ground of appeal under the DESD Act. Therefore, leave to appeal cannot be granted on this basis.

[8] I have read the General Division decision and the written record. The General Division summarized all of the evidence before it. It did not overlook or misconstrue any important information. It did not base its decision on any erroneous findings of fact under the DESD Act.

[9] Nothing suggests that the General Division made an error in law or failed to observe a principle of natural justice.

CONCLUSION

[10] Leave to appeal must therefore be refused.

Valerie Hazlett Parker
Member, Appeal Division

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

REPRESENTATIVES:	T. D., Self-represented
------------------	-------------------------