



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *H. R. v Minister of Employment and Social Development*, 2019 SST 1290

Tribunal File Number: AD-18-743

BETWEEN:

H. R.

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: October 25, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] H. R. (Claimant) last worked in X in 2012. He applied for a Canada Pension Plan disability pension in September 2015 and claimed that he was disabled by left-sided weakness due to a stroke. The Minister of Employment and Social Development refused the application because it decided that the Claimant was not disabled before the end of the minimum qualifying period (MQP) of December 31, 2012.¹

[3] The Claimant appealed the Minister's decision to the Tribunal. The Tribunal's General Division dismissed the appeal because it found that there was not enough medical evidence that the Claimant was disabled before the end of the MQP. Leave to appeal this decision to the Tribunal's Appeal Division is refused because the Claimant has not presented a ground of appeal that falls under the *Department of Employment and Social Development Act* (DESD Act) on which the appeal has a reasonable chance of success.

ISSUE

[4] Is there a ground of appeal under the DESD Act on which the appeal has a reasonable chance of success?

ANALYSIS

[5] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim, but a determination of whether the General Division made an error under the DESD Act. The Act also states that there are only three kinds of errors that can be considered. They are that that the General Division failed to observe a principle of natural

¹ The minimum qualifying period is the date by which a claimant must be found to be disabled by in order to receive the disability pension

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.² In addition, leave to appeal must be refused if the appeal has no reasonable chance of success.³ Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal that falls under the DESD Act and on which the appeal has a reasonable chance of success.

[6] In his letter to the Appeal Division, the Claimant explains his medical condition, that he continued to work even after he became sick, that work is hard to get where he lives, and that he had symptoms of his illness before the MQP. These statements do not point to any errors made by the General Division. Leave to appeal cannot be granted on this basis.

[7] The Tribunal wrote to the Claimant in November 2018, explained what grounds of appeal the Appeal Division can consider and asked the Claimant to provide this. He did not respond to this letter. The Tribunal wrote to him again in October 2019 and the Claimant did not respond to this letter either.

[8] I have read the General Division decision and the documents filed with the Tribunal. The General Division did not overlook or misconstrue any important information. There is no suggestion that the General Division made an error in law or failed to observe a principle of natural justice.

CONCLUSION

[9] Leave to appeal must therefore be refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVES:	H. R., Self-represented
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² DESD Act s. 58(1)

³ DESD Act s. 58(2)