



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. S. v Minister of Employment and Social Development*, 2019 SST 1270

Tribunal File Number: AD-18-663

BETWEEN:

**A. S.**

Applicant

and

**Minister of Employment and Social Development**

Respondent

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

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Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: October 24, 2019

## DECISION AND REASONS

### DECISION

[1] Leave to appeal is refused.

### OVERVIEW

[2] A. S. (Claimant) completed Grade 10 before she joined the paid workforce. She last worked in customer service/reception/shipping until April 2013 when she fell at work. As a result of the fall, the Claimant has problems with her knee and back. She also has mental health difficulties.

[3] The Claimant applied for a Canada Pension Plan disability pension and claimed that she was disabled by these conditions. The Minister of Employment and Social Development refused the application because it decided that the Claimant did not have a disability that was severe under the *Canada Pension Plan*. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal for the same reason. Leave to appeal to the Tribunal's Appeal Division is refused because the Claimant has not presented any grounds of appeal that can be considered under the *Department of Employment and Social Development Act* (DESD Act).

### ISSUE

[4] Has the Claimant presented a ground of appeal under the DESD Act such that the Appeal Division can intervene?

### ANALYSIS

[5] The 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 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.<sup>1</sup> In addition, leave to appeal must be refused unless the appeal has a reasonable chance of success.<sup>2</sup> 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 the Application to the Appeal Division, the Claimant writes that she has severe PTSD, tears in her right knee and back issues, that she will send more medical documents and will advise if she retains a lawyer.

[7] These statements do not point to the General Division having made any errors. The Tribunal wrote to the Claimant and explained what grounds of appeal the Appeal Division can consider and asked her to provide this information. The Claimant did not respond to this letter.

[8] The Tribunal's Appeal Division does not ordinarily consider new evidence,<sup>3</sup> so the Claimant's statement about PTSD and promise to provide additional medical information are not grounds of appeal that can be considered, and leave to appeal cannot be granted on this basis.

[9] The Claimant's wish to hire a lawyer or have someone else represent her also does not point to the General Division having made any error. Leave to appeal cannot be granted on this basis either.

[10] I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. Nothing suggests that it made an error in law or failed to observe a principle of natural justice.

## **CONCLUSION**

[11] Leave to appeal is therefore refused.

Valerie Hazlett Parker  
Member, Appeal Division

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<sup>1</sup> DESD Act s. 58(1)

<sup>2</sup> DESD Act s. 58(2)

<sup>3</sup>Canada (Attorney General) v. O'Keefe, 2016 FC 503

REPRESENTATIVES:	A. S., Self-represented
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