



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. L. v Minister of Employment and Social Development*, 2019 SST 1395

Tribunal File Number: AD-19-795

BETWEEN:

N. L.

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: December 11, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] N. L. (Claimant) has a post-secondary education and work experience as a security guard and an Uber driver. He applied for a Canada Pension Plan disability pension and claimed that he was disabled by anxiety and depression.

[3] The Minister of Employment and Social Development refused the application. The Claimant appealed this decision to the Tribunal's General Division. The General Division dismissed the appeal because it decided that there was no medical evidence that the Claimant was disabled before the end of the minimum qualifying period (MQP – the date by which the Claimant must prove that he was disabled in order to receive the disability pension). Leave to appeal the General Division's decision to the Tribunal's Appeal Division is refused because the appeal does not have a reasonable chance of success based on any grounds of appeal under the Department of Employment and Social Development Act (DESD Act).

GROUND OF APPEAL

[4] 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. Instead, I must decide whether the General Division:

- a) failed to provide a fair process;
- b) failed to decide an issue that it should have, or decided an issue that it should not have;
- c) made an error in law; or
- d) based its decision on an important factual error. This paraphrases the grounds of appeal set out in s. 58(1) of the DESD Act

[5] However, before I can decide an appeal, I must decide whether to grant leave (permission) to appeal. The DESD Act says that leave to appeal must be refused if the appeal does not have a reasonable chance of success. Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal (reason for appealing) that falls under the DESD Act and on which the appeal has a reasonable chance of success. DESD Act s. 58(2)

ANALYSIS

[6] The Claimant wrote in the application to the Appeal Division that leave to appeal should be granted because he had produced enough evidence to show that he was disabled. This does not point to the General Division having made an error under the DESD Act.

[7] The Tribunal wrote to the Claimant and asked that he provide at least one ground of appeal that falls under the DESD Act. The Claimant responded by providing new letters from his doctor. However, presenting new evidence is not a ground of appeal under the DESD Act. New evidence is not ordinarily accepted on appeals under the DESD Act. and leave to appeal cannot be granted on this basis.

[8] I have read the General Division decision and the documents filed with the General Division. It did not overlook or misconstrue any important information.

[9] There is no suggestion that the General Division made an error in law or failed to observe a principle of natural justice.

[10] Therefore, nothing suggests that the appeal would have a reasonable chance of success under the DESD Act.

CONCLUSION

[11] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	Ana Maria Suarez, for the Applicant
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