



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. N. v Minister of Employment and Social Development*, 2020 SST 502

Tribunal File Number: AD-20-64

BETWEEN:

P. 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: June 18, 2020

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] P. N. (Claimant) worked as an accountant in Switzerland before he moved to Canada. In Canada he worked in physically demanding jobs. In 2018, the Claimant had a heart attack. He applied for a Canada Pension Plan disability pension and claimed that he was disabled by this and mental health illness.

[3] The Minister of Employment and Social Development refused the application. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal. It decided that there was not enough evidence regarding the Claimant's condition before the end of his minimum qualifying period (the date by which a claimant must be disabled to receive the disability pension) to prove that he was disabled under the *Canada Pension Plan*.

[4] Leave to appeal the General Division decision to the Tribunal's Appeal Division is refused. The Claimant has not presented a ground of appeal that can be considered and on which the appeal has a reasonable chance of success.

ISSUE

[5] Does the appeal have a reasonable chance of success based on a ground of appeal that can be considered?

ANALYSIS

[6] An appeal to the Tribunal's Appeal Division is not a re-hearing of the original claim. Instead, the Appeal Division can only 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.¹

[7] However, before the Appeal Division can consider an appeal a claimant must first obtain leave (permission) to appeal. Leave to appeal must be refused if the appeal does not have a reasonable chance of success.² Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal (reason for appealing) that the Appeal Division can consider and on which the appeal has a reasonable chance of success.

[8] In the Application to the Appeal Division, the Claimant asked that the Tribunal speak to his psychiatrist. He also stated that he could not afford to pay a lawyer to represent him in this matter. These statements do not point to the General Division having made any errors.

[9] The Tribunal wrote to the Claimant, explained what grounds of appeal the Appeal Division can consider, and asked that he provide this. The Claimant responded by providing his health card number and again asking the Tribunal to contact his doctor. He also pleaded for the Appeal Division to consider his appeal quickly because he was in dire financial straits.

[10] It is not for the Tribunal to contact a claimant's doctor or to take any other steps to obtain evidence for any party who appears before it. It is for the parties to gather their evidence and

¹This paraphrases the grounds of appeal set out in s. 58(1) of the *Department of Employment and Social Development Act*

² *Department of Employment and Social Development Act* s. 58(2)

present it to the Tribunal. Therefore, the Claimant's request that the Tribunal contact his psychiatrist is not a ground of appeal that can be considered.

[11] In addition, that the Claimant cannot pay for a lawyer is not something that the Appeal Division can consider. Many parties appear before the Tribunal without a legal representative. Leave to appeal cannot be granted on this basis.

[12] Finally, I am sympathetic to the Claimant's dire financial circumstances. Unfortunately, leave to appeal cannot be granted on this basis. This does not point to the General Division having made any error.

[13] I have read the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is no suggestion that it made an error in law or failed to provide a fair process.

CONCLUSION

[14] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVES:	P. N., Self-represented
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