



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. A. v Minister of Employment and Social Development*, 2020 SST 595

Tribunal File Number: AD-20-677

BETWEEN:

S. A.

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 9, 2020

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] S. A. (Claimant) completed engineering training in Yemen. He came to Canada in 2002 and has worked in physically active jobs since then. The Claimant currently works at a grocery store. He also returned to Yemen for some time and worked there. The Claimant has medical conditions, including arthritis, which result in pain and limitations in different areas, including his knees, legs and shoulder. He has had knee surgery. The Claimant also says that he forgets things.

[3] The Claimant applied for a Canada Pension Plan disability pension and said that he was disabled by these conditions. 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 the Claimant's continued work at a grocery store proved that he had capacity regularly to pursue a substantially gainful occupation.

[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 (reason for appealing) that the Appeal Division can consider.

ISSUE

[5] Does the appeal have a reasonable chance of success for one of the reasons presented by the Claimant?

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, a claimant must first obtain leave (permission) to appeal. Leave to appeal to the Appeal Division 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 that the Appeal Division can consider and on which the appeal has a reasonable chance of success.

[8] When the Claimant first wrote to the Tribunal's Appeal Division, he asked that it review his claim. This is not what the Appeal Division is to do. Therefore, the Tribunal wrote to the Claimant, explained what grounds of appeal can be considered and asked that the Claimant provide this. The Claimant responded. He wrote that he would like a chance to explain his condition. He also presented copies of various medical documents.

[9] The Claimant's repetition of evidence regarding his medical conditions is not a ground of appeal that the Appeal Division can consider. Leave to appeal cannot be granted on this basis.

[10] Also, the presentation of new evidence is not generally permitted at the Appeal Division.³ The evidence presented by the Claimant does not fall into any exception to this rule. Therefore, leave to appeal cannot be granted on the basis of presentation of new evidence.

[11] I have read the General Division decision and the documents presented to the Tribunal. 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

[12] Leave to appeal is refused.

¹ This 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)

³ *Canada (Attorney General) v. O'Keefe*, 2016 FC 503

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	S. A., Self-represented
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