

Citation: *M. R. v. Canada Employment Insurance Commission*, 2014 SSTAD 409

Appeal No. AD-13-1128

BETWEEN:

**M. R.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: December 31, 2014

DECISION: Leave to appeal granted

## DECISION

[1] On February 19, 2013, a panel of the board of referees (“the Board”) determined that the appeal of the Applicant from the previous determination of the Commission should be denied.

[2] The Applicant’s application was filed with the Tribunal outside of the current 30-day time limit. However, the Applicant attempted to file her application with an umpire within the old 60-day limit, and only became aware that this was no longer the correct procedure after the appeal period had passed. Moreover, the Board communicated to the Applicant that she indeed had 60 days to appeal, which created a reasonable expectation that the 60-day limit would be applied in her case. In light of this, it is my view that it would be contrary to the interests of justice to disallow the application for lateness and I therefore allow further time within which this application can be made.

[3] Subsection 58(1) of the *Department of Employment and Social Development Act* states that the only grounds of appeal are that:

- (a) The General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) The General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) The General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[4] The *Act* also states that leave to appeal is to be refused if the appeal has “no reasonable chance of success”.

[5] I have read and carefully considered the application of the Applicant. In it, among other submissions, she outlines in detail how the Board erred in determining that she had

made a misrepresentation knowingly. She additionally makes reference to relevant case law.

[6] In my view, these pleadings set out grounds which have a reasonable chance of success. Accordingly, this application for leave to appeal is granted.

*Mark Borer*

Member, Appeal Division