

Citation: *N. A. v. Canada Employment Insurance Commission*, 2014 SSTAD 398

Appeal No. AD-13-86

BETWEEN:

**N. A.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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

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SOCIAL SECURITY TRIBUNAL MEMBER: Pierre Lafontaine

DATE OF DECISION: December 24, 2014

## **DECISION**

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

## **INTRODUCTION**

[2] On May 23, 2013, a panel of the board of referees determined that:

- The Applicant did not have good cause for her delay in applying for benefits pursuant to section 10(4) of the *Employment Insurance Act* (the “Act”).

[3] The Applicant requested leave to appeal to the Appeal Division on June 21, 2013.

## **ISSUE**

[4] The Tribunal must decide if the appeal has a reasonable chance of success.

## **THE LAW**

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*DESD Act*”), “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the *DESD Act* provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

## **ANALYSIS**

[7] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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.

[8] The Applicant needs to satisfy the Tribunal that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] In this case, the board of referees had to decide if the Applicant had good cause for her delay in applying for benefits. The board concluded that the Applicant had made a personal decision not to apply sooner.

[10] The Applicant, in her application for leave, argues that “a reasonable person does allow ample time before being proactive about details” to explain why she did not apply for benefits until December 14, 2012 although she had stopped working on October 17, 2012.

[11] While an applicant is not required to prove the grounds of appeal for the purposes of a leave application, at the very least, an applicant ought to set out some reasons which fall into the enumerated grounds of appeal. The Application is deficient in this regard and the Applicant has not satisfied the Tribunal that the appeal has a reasonable chance of success.

## **CONCLUSION**

[12] The Application is refused.

*Pierre Lafontaine*

Member, Appeal Division