

Citation: *N. O. v. Canada Employment Insurance Commission*, 2015 SSTAD 13

Appeal No. AD-13-1130

BETWEEN:

N. O.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: January 6, 2015

DECISION: Leave to appeal refused

DECISION

[1] On March 13, 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 her submissions, the Applicant restates much of the evidence and arguments previously raised before the Board and asks that the decision be overturned.

[6] I note that the role of the Appeal Division is to determine if an error has been made by the General Division and if so to provide a remedy for that error. An appeal to the Appeal Division is not an opportunity for an applicant to re-argue their case and ask for a different outcome, as is the case here.

[7] In my view, the Applicant has not articulated any specific error or ground of appeal that could cause me to overturn the Board's decision. I have therefore concluded that this application does not have a reasonable chance of success.

[8] As it has no reasonable chance of success, this application for leave to appeal must be refused.

Mark Borer

Member, Appeal Division