

Citation: *R. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 181

Appeal No. AD-14-522

BETWEEN:

R. S.

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: February 9, 2015

DECISION: Leave to appeal refused

DECISION

[1] On July 9, 2014, a member of the General Division determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed. Although the Applicant filed an application requesting leave to appeal to the Appeal Division beyond the 30-day limit, an extension of time to file the application has already been granted by the Vice-Chairperson of the Appeal Division.

[2] 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.

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

[4] I have read and carefully considered the application of the Applicant. In it, she submits that the General Division failed to observe a principle of natural justice because when the Applicant was asked questions by the Commission about her availability she “should have been clearly advised as to why the questions were being asked, what was expected of her and the consequences of her response”. The Applicant asks that she be able to provide additional evidence that would prove her entitlement to benefits.

[5] I note that no additional evidence has been provided.

[6] Although the Applicant has referenced the principles of natural justice, what they are really asking me to do is to re-hear the case from scratch and come to a different determination than that already reached by the General Division.

[7] As set out in the *Act*, the role of the Appeal Division is to determine if an enumerated error has been made and if so to provide a remedy for that error. In the absence of such an error, the law does not permit the Appeal Division to intervene.

[8] In order to have a reasonable chance of success, the Applicant must explain in what way at least one reviewable error has been made by the General Division. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division