

Citation: *Canada Employment Insurance Commission v. K. J.*, 2015 SSTAD 236

Appeal No. AD-13-1147

BETWEEN:

Canada Employment Insurance Commission

Applicant

and

K. J.

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: February 20, 2015

DECISION: Leave to appeal granted

DECISION

[1] On March 26, 2013, a panel of the board of referees (“the Board”) determined that the appeal of the Respondent from the previous determination of the Commission should be allowed. In due course, the Commission filed a request for leave to appeal to 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 [or the Board] failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- b) The General Division [or the Board] erred in law in making its decision, whether or not the error appears on the face of the record; or
- c) The General Division [or the Board] 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 Commission. In it, the Commission outlines their views as to how the Board made legal and factual errors in allowing the Respondent’s appeal. Specifically, they allege that the Board incorrectly determined and applied the law regarding the allocation of earnings as it related to the Respondent.

[5] 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