

Citation: *A. Q. v. Canada Employment Insurance Commission*, 2015 SSTAD 303

Appeal No. AD-13-1132

BETWEEN:

A. Q.

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: March 5, 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 Applicant from the previous determination of the Commission should be dismissed. In due course, the Applicant 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] The Applicant submits that he should receive benefits for the period of February 14, 2010 to March 27, 2010 because the Board agreed with him that he was not out of the country during this period, and asks that this portion of the overpayment be removed. He also asks that the penalty be removed, as the Board found in his favour on this point also.

[5] Essentially, the Applicant is arguing that the decision of the Board has not been carried out.

[6] If shown to be true, these arguments could result in a successful appeal and I therefore find that these pleadings have a reasonable chance of success. Accordingly, this application for leave to appeal is granted.

Mark Borer

Member, Appeal Division