

Citation: *Z. H. v. Canada Employment Insurance Commission*, 2015 SSTAD 312

Appeal No. AD-14-176

BETWEEN:

Z. H.

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 6, 2015

DECISION: Leave to appeal granted

DECISION

[1] On January 22, 2014, a member of the General Division 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 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] The Applicant submits that he was unaware of his hearing date because he was out of the country. He asks that a new hearing be held, and submits flight records in support of his position.

[5] The Commission submits that they are of the view that leave to appeal should be granted.

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

Mark Borer

Member, Appeal Division