

Citation: *S. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 392

Appeal No. AD-14-306

BETWEEN:

S. A.

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 23, 2015

DECISION: Leave to appeal refused

DECISION

[1] On February 25, 2014, a member of the General Division determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed. On June 26, 2014, the Applicant filed an application requesting leave to appeal to the Appeal Division.

[2] The application of the Applicant was filed late. Although her explanation for this is not particularly compelling, it is my view that it would be contrary to the interests of justice to disallow the application for lateness. I note that the Applicant has expressed a continuing intention to appeal, and that for the reasons below the Commission will not suffer any prejudice as a result of this. 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] In her application, the Applicant re-states the evidence she provided to the General Division member and suggests that the General Division member erred in fact in coming to their conclusions, seemingly because the Applicant disagrees with the ultimate result. The Applicant is essentially asking that I re-hear the case and come to a conclusion different from that already rendered.

[6] I note that the role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the *Act* has been made by the General Division and if so to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene.

[7] In order to have a reasonable chance of success, the Applicant must explain how 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