

Citation: *T. B. v. Canada Employment Insurance Commission*, 2015 SSTAD 409

Appeal No. AD-14-361

BETWEEN:

T. B.

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 25, 2015

DECISION: Leave to appeal granted

DECISION

[1] On June 4, 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 an application 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] In his application, the Applicant submits that the General Division member erred in fact by not correctly determining the date that the Applicant left and returned to Canada. For this reason, the Applicant submits that the disentitlement imposed was incorrect.

[5] Although I make no findings on the matter, I note that on the face of the record the General Division member did not consider or apply *Canada (Attorney General) v. Picard*, 2014 FCA 46 in determining the length of the disentitlement applicable to the Applicant for being outside of Canada, and may thereby have erred.

[6] I therefore find that this application has a reasonable chance of success. For that reason, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division