

Citation: *B. U. v. Canada Employment Insurance Commission*, 2015 SSTAD 428

Appeal No. AD-14-171

BETWEEN:

B. U.

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 27, 2015

DECISION: Leave to appeal granted

DECISION

[1] On February 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] The Applicant submits that the General Division member erred by not explaining why she preferred the evidence of the Employer over that of the Applicant. The Applicant also argues that he was unable to testify at the General Division hearing for reasons outside of his control, and should receive a new hearing so that he can do so.

[5] Although I make no findings regarding these submissions, I find that these arguments are adequately explained such that if proven they could result in a successful appeal.

[6] I therefore find that these pleadings have a reasonable chance of success. Accordingly, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division