

Citation: *C. P. v. Canada Employment Insurance Commission*, 2015 SSTAD 434

Appeal No. AD-14-514

BETWEEN:

C. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal Decision

SOCIAL SECURITY TRIBUNAL MEMBER: Pierre Lafontaine

DATE OF DECISION: March 27, 2015

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On September 8, 2014, the General Division of the Tribunal determined that:

- The Applicant had lost his employment by reason of his own misconduct pursuant to sections 29 and 30 of the *Employment Insurance Act* (the “Act”).

[3] The Applicant requested leave to appeal to the Appeal Division on September 23, 2014.

ISSUE

[4] The Tribunal must decide if the appeal has a reasonable chance of success.

THE LAW

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*DESD Act*”), “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the *DESD Act* provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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.

[8] The Applicant needs to satisfy the Tribunal that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] In his application for leave to appeal, the Applicant simply states the ground of appeal mentioned in section 58(1)(c) of the *DESD Act* and mentions that he wants to show the Tribunal that his employer agreed to mediation before the Human Rights Tribunal regarding his claim of discrimination. Mediation was scheduled for December 9, 2014.

[10] However, the Applicant has not identified any errors of jurisdiction or any failure by the General Division to observe a principle of natural justice. It has not identified errors in law nor identified any erroneous findings of fact which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[11] It is not for the Member deciding whether to grant leave to appeal to clarify the grounds of appeal of an applicant or to explore the merits of the decision of the General Division. Furthermore, the General Division is the pivot of the entire system put in place by the *Act* for the purpose of verifying and interpreting the facts and make an assessment on the issue before it. It is not bound by a decision of the Human Rights Tribunal or by the mediation result between the Employer and the Applicant.

[12] While an applicant is not required to prove the grounds of appeal for the purposes of a leave application, at the very least, an applicant ought to set out some reasons which fall into the enumerated grounds of appeal. The Application is deficient in this regard and the Applicant has not satisfied the Tribunal that the appeal has a reasonable chance of success.

CONCLUSION

[13] The Application is refused.

Pierre Lafontaine

Member, Appeal Division