

Citation: *F. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 451

Appeal No. AD-14-364

BETWEEN:

**F. S.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: April 1, 2015

DECISION: Leave to appeal granted

## DECISION

[1] On July 9, 2014, a member of the General Division determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. In due course, the Appellant 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 their application, the Appellant explains at length the manner in which he disagrees with the findings and conclusions of the General Division member. The Appellant is particularly adamant that various calculations have been done incorrectly and that the General Division member did not properly assess the evidence before him.

[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 Appellant 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