

Citation: *A. W. v. Canada Employment Insurance Commission*, 2015 SSTAD 466

Appeal No. AD-14-572

BETWEEN:

A. W.

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: April 7, 2015

DECISION: Leave to appeal granted

DECISION

[1] On November 10, 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 a request 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 her application, the Appellant outlines her views as to how the General Division erred in coming to its conclusion that her initial application for benefits should not be backdated. The Appellant further explains how she took all the steps that a reasonable and prudent person would take to make themselves aware of their rights and obligations, and submits that this means that she should qualify for the antedate she requested. In support of this submission, the Appellant also cites relevant jurisprudence of the Federal Court of Appeal and distinguishes a case cited by the General Division.

[5] In my view, these pleadings set out grounds which have a reasonable chance of success. Accordingly, this application for leave to appeal is granted.

Mark Borer

Member, Appeal Division