

Citation: *M. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 446

Appeal No. AD-14-537

BETWEEN:

**M. A.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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

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SOCIAL SECURITY TRIBUNAL MEMBER: Pierre Lafontaine

DATE OF DECISION: March 31, 2015

## **DECISION**

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

## **INTRODUCTION**

[2] On September 26, 2014, the General Division of the Tribunal determined that:

- The Applicant failed to meet the onus placed upon him to demonstrate good cause for the entire period of the delay in making the initial claim for benefits pursuant to section 10(4) of the *Employment Insurance Act* (the “Act”).
- The Applicant did not have sufficient hours to qualify for regular benefits pursuant to section 7 of the *Act*.

[3] The Applicant requested leave to appeal to the Appeal Division on October 16, 2014.

## **ISSUES**

[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] In regards to the application for permission to appeal, 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] The Applicant, in his application for leave, states that the Member did not consider at all the fact that Service Canada is providing false and misleading information on its Website and that is a good cause for delay. The Member said that even if the Applicant had a good cause for the delay, it is not for the entire period and underlined "entire period" (page 12 [39]). The Applicant submits that the cause of delay still exists till the time he wrote the letter of appeal. He pleads that although Service Canada is trying to change their mistake, he can show that his cause of delay still exists.

[10] Finally, he submits that the Member did not consider many similar legal cases: (For example: CUB 12995A; CUB 43320; CUB 225154; CUB 42827; CUB47897; CUB 59041; CUB 17192; CUB 17192; CUB 46663; *Caron* 1986 FCA 85, etc.).

[11] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of his request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out

reasons which fall into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

## **CONCLUSION**

[12] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

*Pierre Lafontaine*

Member, Appeal Division