

Citation: *A. P. v. Canada Employment Insurance Commission*, 2015 SSTAD 474

Date: April 9, 2015

File number: AD-13-699

APPEAL DIVISION

Between:

A. P.

Appellant

and

Canada Employment Insurance Commission

Respondent

Decision by: Mark Borer, Member, Appeal Division

Decided on the record on April 9, 2015

DECISION

[1] On consent, leave to appeal is granted and the appeal is allowed. The matter is returned to the General Division for reconsideration.

INTRODUCTION

[1] On February 19, 2013, a panel of the board of referees (“the Board”) determined that the appeal of the Appellant should be dismissed. In due course, the Appellant filed an application with the Appeal Division requesting leave to appeal.

[2] This appeal was decided on the record.

THE LAW

[3] According to subsection 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are that:

(a) the General Division [or the Board] failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

(b) the General Division [or the Board] erred in law in making its decision, whether or not the error appears on the face of the record; or

(c) the General Division [or the Board] 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.

[4] As previously determined by the Federal Court of Appeal in *Canada (Attorney General) v. Jewett*, 2013 FCA 243, *Chaulk v. Canada (Attorney General)*, 2012 FCA 190, and many other cases, the standard of review for questions of law and jurisdiction in employment insurance appeals is that of correctness, while the standard of review for questions of fact and mixed fact and law in employment insurance appeals is reasonableness.

ANALYSIS

[5] In his appeal, the Appellant submits that the Board did not properly notify him as to the time and place of the hearing. He asks that a new hearing be ordered so that he can make his case fully.

[6] The Commission, while opposing the Appellant's appeal, admits that the Board decision is flawed. Specifically, they concede that the Board did not properly make findings on all points at issue and failed to fully explain how it came to its decision. They ask that the matter be returned to the General Division for a new hearing.

[7] Full written reasons must be given for all Board decisions. Without written reasons, it is impossible for the parties to understand the reasoning of the Board or to assess properly grounds for appeal.

[8] I agree with the submissions of the parties that this decision cannot stand. The appropriate remedy is for this matter to be returned to the General Division for reconsideration.

CONCLUSION

[9] Therefore, on consent and for the reasons above, leave to appeal is granted and the appeal is allowed. The matter is returned to the General Division for reconsideration.

Mark Borer
Member, Appeal Division