

Citation: *A. W. v. Canada Employment Insurance Commission*, 2015 SSTAD 532

Appeal No. AD-15-1

BETWEEN:

**A. W.**

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 28, 2015

DECISION: Leave to appeal granted

## DECISION

[1] On November 25, 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] The Appellant submits that the General Division member erred in law by not properly determining and applying the legislation and jurisprudence on the issue of availability, and provides extensive legal argument to this effect.

[5] Although I make no findings regarding the merit of these submissions, I find that they adequately set out grounds of appeal which if proven could result in a successful appeal.

[6] I therefore find that these pleadings have a reasonable chance of success.

Accordingly, this application for leave to appeal must be granted.

*Mark Borer*

Member, Appeal Division