

Citation: *D. B. v. Canada Employment Insurance Commission*, 2015 SSTAD 556

Appeal No. AD-13-294

BETWEEN:

D. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION : May 5, 2015

DECISION : Leave to appeal refused

DECISION

[1] On April 3, 2014, a member of the General Division determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. On June 13, 2014, the Appellant filed an application requesting leave to appeal to the Appeal Division.

[2] The application of the Appellant was filed late. Although his explanation for this is not particularly compelling, because the delay was fairly short it is my view that it would be contrary to the interests of justice to disallow the application for lateness. I also note that for the reasons below the Commission will not suffer any prejudice as a result of this. I therefore allow further time within which this application can be made.

[3] 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.

[4] The *Act* also states that leave to appeal is to be refused if the appeal has “no reasonable chance of success”.

[5] In his application, the Appellant disagrees with the General Division decision, and submits that “the information supplied to the Tribunal and Commission by the Employer is not accurate”. He then re-states much of the evidence he presented to the General Division member, and asks that “some sort of re-consideration in this matter” be done.

[6] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the *Act* has been made by the General Division and if so to provide a remedy for

that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene.

[7] It is not sufficient for an Appellant to plead without further elaboration that the General Division member was mistaken in his or her conclusions and ask the Appeal Division for a different outcome. In order to have a reasonable chance of success, the Appellant must explain in some detail how in their view at least one reviewable error set out in the *Act* has been made. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division