

Citation: *T. S. v. Canada Employment Insurance Commission*, 2014 SSTAD 561

Appeal No. AD-13-83

BETWEEN:

**T. S.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

---

**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Appeal**

---

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: May 7, 2015

DECISION: Appeal allowed

## **DECISION**

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

## **INTRODUCTION**

[2] On May 23, 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.

[3] This appeal was decided on the record.

## **THE LAW**

[4] 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.

[5] 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**

[6] In his appeal, the Appellant submits that he was confused about the time and the place of the hearing.

[7] The Commission admits that the Appellant may not have received a call back from the Board when he attempted to reschedule his hearing. In these circumstances, they ask that the matter be returned to the General Division for a new hearing so that the Appellant can be heard.

[8] I agree that there may have been a breach of the principles of natural justice. I also note that significant errors exist in the decision itself. Therefore, the appropriate remedy is for this matter to be returned to the General Division for reconsideration.

## **CONCLUSION**

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

*Mark Borer*

Member, Appeal Division