

Citation: *D. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 627

Appeal No. AD-14-300

BETWEEN:

D. S.

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 22, 2015

DECISION: Leave to appeal granted

DECISION

[1] On May 20, 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 by ignoring the uncontested evidence and also erred by making findings that were not supported by the evidence.

[5] Although I make no findings regarding the merit of these submissions, I note that if proven they could lead to a successful appeal. I also note that, after reviewing the file, the Commission does not oppose leave being granted.

[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