

Citation: *X. H. v. Canada Employment Insurance Commission*, 2015 SSTAD 659

Appeal No. AD-13-914

BETWEEN:

X. H.

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 : Mai 28, 2015

DECISION : Leave to appeal granted

DECISION

[1] On April 17, 2013, a panel of the board of referees (the Board) determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. On November 18, 2013, the Appellant filed a request for leave to appeal to the Appeal Division.

[2] Although the Appellant filed her application well after the 30-day appeal period, she attempted to file her application on time with Service Canada on the mistaken understanding that this was still the correct procedure. Noting that the Commission has no objection to an extension of time being granted, I find that it would be contrary to the interests of justice to disallow the application for lateness. 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 [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] The *Act* also states that leave to appeal is to be refused if the appeal has “no reasonable chance of success”.

[5] The Appellant submits that she missed the hearing before the Board because she was out of town and only became aware of it upon her return. She asks for a new hearing so that she can make her case in full.

[6] I note that the Commission does not oppose leave to appeal being granted.

[7] If shown to be true, these arguments could result in a successful appeal. Noting the position of the Commission, I find that these pleadings have a reasonable chance of success. Accordingly, this application for leave to appeal is granted.

Mark Borer

Member, Appeal Division