

Citation: *B. L. v. Canada Employment Insurance Commission*, 2015 SSTAD 680

Appeal No. AD-14-428

BETWEEN:

B. L.

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: June 2, 2015

DECISION: Leave to appeal granted

DECISION

[1] On May 14, 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] The application of the Appellant was filed late. As the delay was fairly short and, as detailed below, the application has a reasonable chance of success it is my view 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 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 their application, the Appellant explains that he disagrees with the findings and conclusions of the General Division member. The Appellant also submits that he was unable to attend the hearing because he “was confused by his missing hearing original time [sic]” and asks that he be able to make his case in full.

[6] Although I make no findings on the matter, I note that on the face of the record the General Division member did not consider or apply *Canada (Attorney General) v. Picard*, 2014 FCA 46, in determining the length of the disentitlement applicable to the Applicant for being outside of Canada, and may thereby have erred.

[7] I therefore find that this application has a reasonable chance of success. For that reason, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division