

[TRANSLATION]

**Citation:** *D. G. v. Canada Employment Insurance Commission*, 2015 SSTAD 722

**Date:** June 10, 2015

**File number:** AD-15-100

**APPEAL DIVISION**

**Between:**

**D. G.**

**Applicant**

**and**

**Canada Employment Insurance Commission**

**Respondent**

**Decision by:** Pierre Lafontaine, Member, Appeal Division

## **REASONS AND DECISION**

### **DECISION**

[1] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

### **INTRODUCTION**

[2] On February 9, 2015, the Tribunal's General Division found that:

- The Applicant's employment earnings had to be dealt with under subsection 21(3) of the *Employment Insurance Act* ("the Act").

[3] The Applicant filed an application for leave to appeal to the Appeal Division on March 11, 2015.

### **ISSUE**

[4] The Tribunal must determine whether the appeal has a reasonable chance of success.

### **THE LAW**

[5] As stated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, "[a]n appeal to the Appeal Division may only be brought if leave to appeal is granted" and the Appeal Division "must either grant or refuse leave to appeal".

[6] Subsection 58(2) of the *Department of Employment and Social Development Act* provides that "[l]eave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success".

### **ANALYSIS**

[7] Under subsection 58(1) of the *Department of Employment and Social Development Act*, 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 or order, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[8] In her application for leave to appeal, the Applicant submits that the General Division failed to observe a principle of natural justice, acted beyond its jurisdiction or refused to exercise its jurisdiction.

[9] She challenges subsection 21(3) of the *Act*, since, she argues, it is contrary to section 7 of the *Canadian Charter of Rights and Freedoms* (“the *Charter*”), which guarantees “Life, liberty and security of person”. She also raises the application of section 15 of the *Charter*.

[10] After reviewing the file and the application for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has raised a question of jurisdiction the answer to which may lead to the setting aside of the decision challenged.

## **CONCLUSION**

[11] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

*Pierre Lafontaine*  
Member, Appeal Division