

Citation: *Y. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 727

Appeal No. AD-14-196

BETWEEN:

Y. A.

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 11, 2015

DECISION: Leave to appeal granted

DECISION

[1] On January 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. On April 7, 2014, the Appellant filed an application for leave to appeal to the Appeal Division.

[2] The Appellant's application to the Appeal Division was filed late. Although her explanation for this is not particularly compelling, she does express a continuing intention to appeal. As for the reasons below I find that the application has a reasonable chance of success, 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 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] Among other arguments, the Appellant submits that the General Division member should not have proceeded in her absence when she did not attend the hearing. Although phrased in an unusual manner, the Appellant appears to be arguing that she did not receive notice of the hearing and was therefore denied her right to be heard.

[6] Although I make no finding on the matter, if found to be true the Appellant's pleadings could support a successful appeal.

[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