

Citation: *A. K. v. Canada Employment Insurance Commission*, 2015 SSTAD 749

Appeal No. AD-15-238

BETWEEN:

A. K.

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 18, 2015

DECISION: Leave to appeal refused

DECISION

[1] On April 17, 2015, a member of the General Division declined to allow an appeal from the previous determination of the Commission. In due course, the Appellant filed an application requesting leave to appeal this decision 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] In his application the Appellant re-states many of his arguments before the General Division, and states that although his Employer promised to re-hire him this did not happen. He asks that “the General Division to investigate on this matter [sic]”. Although he references two of the enumerated grounds of appeal, he appears to be requesting that the Appeal Division re-weigh the evidence and come to a conclusion more favourable to him.

[5] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the *Act* has been made by the General Division and if so to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[6] It is not sufficient for an Appellant to plead that the General Division member was mistaken in his or her conclusions and ask the Appeal Division for a different outcome.

In order to have a reasonable chance of success, the Appellant must explain in some detail how in their view at least one reviewable error set out in the *Act* has been made. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division