

[TRADUCTION]

Citation: *S. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 763

Date: June 19, 2015

File number: AD-15-131

APPEAL DIVISION

Between:

S. A.

Applicant

and

Canada Employment Insurance Commission

Respondent

Decision by: Pierre Lafontaine, Member, Appeal Division

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On February 20, 2015, the Tribunal's General Division found that:

- The Applicant had insufficient hours of insurable employment to establish a claim for employment insurance benefits pursuant to section 7.1 of the *Employment Insurance Act* ("the Act").

[3] The Applicant filed an application for leave to appeal to the Appeal Division on March 12, 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] An application for leave to appeal is a preliminary step to a hearing on the merits. It is a first, and lower, hurdle for the Applicant to meet than the one that must be met on the hearing of the appeal on the merits. At the application for leave to appeal stage, the Applicant does not have to prove his case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] To do so, the Tribunal must, in accordance with subsection 58(1) of the *Department of Employment and Social Development Act*, be able to see a question of law, fact or jurisdiction the answer to which may lead to the setting aside of the decision attacked.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In his application for leave to appeal, the Appellant states that the General Division erred in law in its decision, but he does not say what error it made. He sets out a table explaining the number of hours required in each region and states that he has the number of hours required to receive benefits.

[13] In support of the application for leave to appeal, the Applicant adds nothing of significance to what was already put before the General Division. On appeal, he argues again that he accumulated 666 insurable hours, whereas he was required to accumulate 560 insurable hours. However, he fails to take account of the fact that the issuance of a notice of serious violation had the effect of increasing the number of hours he needed to 840, thus disentitling him to benefits.

[14] Since the Applicant is not raising any question of law, fact or jurisdiction the answer to which may lead to the setting aside of the decision challenged, the appeal has no reasonable chance of success.

CONCLUSION

[15] Leave to appeal is refused.

Pierre Lafontaine
Member, Appeal Division