

Citation: *D. W. v. Canada Employment Insurance Commission*, 2015 SSTAD 803

Appeal No. AD-14-359

BETWEEN:

D. W.

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 25, 2015

DECISION: Leave to appeal granted

DECISION

[1] On June 24, 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] 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] The Appellant states, among other grounds, that the General Division member erred by ignoring his evidence. He asks that his appeal be allowed.

[5] Although I make no finding on the matter, I note that the General Division member may not have properly determined the law regarding just cause for voluntarily leaving. I also note that the member may not have considered or applied *Canada (Attorney General) v. Lessard*, 2002 FCA 469, and my thereby have rendered an unreasonable decision.

[6] If either of the above were proven, it could ground a successful appeal. I therefore find that this application has a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division