

Citation: *A. M. v. Canada Employment Insurance Commission*, 2015 SSTAD 909

Appeal No. AD-14-286

BETWEEN:

**A. M.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: July 23, 2015

DECISION: Appeal allowed

## **DECISION**

[1] On consent, the appeal is allowed. The case will be returned to the General Division for reconsideration.

## **INTRODUCTION**

[2] On May 9, 2014, a General Division member determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. The Appellant appealed that decision to the Appeal Division. On May 26, 2015, leave to appeal was granted.

[3] This appeal was decided on the record.

## **ANALYSIS**

[4] The Appellant submits that he called into the scheduled teleconference with the General Division member at 1:00 pm on the appointed day, but that the member did not appear. He also submits that his representative, an employee of the Hamilton Community Legal Clinic, was present and can confirm his account if needed. The Appellant asks for a new hearing so that he can make his case in full.

[5] The Commission notes that the General Division decision states that the member attended the teleconference at 11:50 am on the date of the hearing, although the notice of hearing states that the hearing was set for 1:00 pm. The Commission submits that this may simply be a typographical error in the decision, but that in the absence of evidence to the contrary and in the circumstances described by the Appellant, it is in the interests of justice that a new hearing should be held. On this basis, the Commission consents to a new hearing.

[6] It has long been held that the right to be heard is a fundamental natural justice right and it is well established that the denial of this right is a breach of the principles of natural justice that constitutes grounds for a new hearing.

[7] I agree with the Commission that it is better to err on the side of the Appellant in the particular circumstances of this case. I therefore allow the appeal so that the Appellant can plead his case in full.

## **CONCLUSION**

[8] On consent, the appeal is allowed. The case will be returned to the General Division for reconsideration.

*Mark Borer*

Member, Appeal Division