

Citation: *Canada Employment Insurance Commission v. D. P.*, 2015 SSTAD 910

Appeal No. AD-13-1173

BETWEEN:

Canada Employment Insurance Commission

Applicant

and

D. P.

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: July 24, 2015

DECISION: Leave to appeal granted

DECISION

[1] On April 30, 2013, a panel of the board of referees (the Board) determined that the appeal of the Respondent from the previous determination of the Commission should be allowed. In due course, the Commission filed a request 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 [or the Board] failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) The General Division [or the Board] erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) The General Division [or the Board] 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 their submissions, the Commission outlines their views as to how the Board made legal and factual errors in allowing the Respondent’s appeal. Specifically, they allege that the Board incorrectly applied the established jurisprudence and the *Employment Insurance Act* in determining that the Respondent should have his claim antedated.

[5] If proven, these pleadings could result in a successful appeal. Accordingly, I find that this appeal has a reasonable chance of success and this application for leave to appeal should be granted.

Mark Borer

Member, Appeal Division