

Citation: *B. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 979

Appeal No. AD-15-369

BETWEEN:

**B. A.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

---

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

---

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: August 14, 2015

DECISION: Leave to appeal refused

## DECISION

[1] On April 24, 2015, a member of the General Division declined to allow an appeal from the previous determination of the Commission. On June 16, 2015, the Applicant filed an application requesting leave to appeal this decision to the Appeal Division.

[2] The Applicant's application to the Appeal Division was filed late. That being said, the Applicant had been in contact with the Tribunal regarding filing such an appeal and expressed a continuing intention to do so. The delay was not overly long, and I am prepared to accept the explanation of the Applicant for his delay. Therefore, in the interests of justice I allow further time within which this application can be made. I note that for the reasons below the Commission will not suffer any prejudice as a result of this.

[3] 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.

[4] The *Act* also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[5] In his application, the Applicant states only that "they told me the general division's they told me the result was dismiss and I can appeal by submitting an application for leave to appeal to the appeal [sic]". He appears to be asking that I re-hear his case and come to a conclusion different than that already rendered by the General Division member.

[6] 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*.

[7] It is not sufficient for an Applicant 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 Applicant 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