

Citation: *M. D. v. Canada Employment Insurance Commission*, 2015 SSTAD 1020

Appeal No. AD-15-346

BETWEEN:

M. D.

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 27, 2015

DECISION: Leave to appeal granted

DECISION

[1] On May 25, 2015, a member of the General Division determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed. In due course, the Applicant 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] In her application for leave to appeal, the Applicant outlines her views as to how the General Division member made legal and factual errors in dismissing her appeal. Specifically, she alleges that the General Division misapplied the law regarding antedate requests and came to an unreasonable decision.

[5] Although I make no finding on the matter, I note that if proven these submissions could ground a successful appeal. I therefore find that this application has a reasonable chance of success. For that reason, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division