

Citation: *A. G. v. Canada Employment Insurance Commission*, 2015 SSTAD 1026

Date: August 28, 2015

File number: AD-15-76

APPEAL DIVISION

Between:

A. G.

Applicant

and

Canada Employment Insurance Commission

Respondent

Decision by: Shu-Tai Cheng, Member, Appeal Division

REASONS AND DECISION

INTRODUCTION

[1] The Applicant applies to the Appeal Division of the Social Security Tribunal (Tribunal) for leave to appeal the decision of the General Division (GD) of the Tribunal, dated February 9, 2015. The General Division refused an extension of time for the Applicant to appeal from a reconsideration decision of the Respondent (Commission).

[2] The Applicant had applied for employment insurance (EI) benefits on April 29, 2010. The Commission denied the application at the initial level and, on September 17, 2013, denied the application at the reconsideration level. The Appellant appealed the reconsideration decision on November 4, 2014, beyond the one year time limit set out in subsection 52(2) of the *Department of Human Resources and Skills Development Act* (DHRSD Act).

[3] The Applicant filed a letter, which was treated as an application for leave to appeal (Application) with the Appeal Division of the Tribunal, on February 18, 2015. The Application was filed within the 30 day time limit.

ISSUE

[4] The Tribunal must decide if the appeal has a reasonable chance of success.

SUBMISSIONS

[5] The Applicant submitted in support of the Application that:

- a) He moved to Ontario to gain language skills and to find work;
- b) He eventually found employment in X and went to school in the mornings; and
- c) He sent an ROE to the EI office on April 29, 2010 and did not receive benefits before he received the ROE.

[6] The Applicant's submissions were in respect of the merits of the appeal before the GD and not the GD's decision to refuse an extension of time.

LAW AND ANALYSIS

[7] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development (DESD) Act*, “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[8] Subsection 58(2) of the DESD Act provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

[9] Subsection 58(1) of the DESD Act states that the only grounds of appeal are the following:

- (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.

[10] The Tribunal must be satisfied that the reasons for appeal fall within any of the grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[11] The Applicant’s submissions as set out in paragraph [5], above, were included in the materials before the General Division. In addition, these reasons for appeal do not fall within any of the enumerated grounds of appeal. They also do not relate to the issue determined by the GD decision: a refusal of an extension of time.

[12] I have read and carefully considered the GD’s decision and the record. There is no suggestion by the Applicant that the General Division failed to observe a principle of natural justice or that it otherwise acted beyond or refused to exercise its jurisdiction in coming to its decision. The Applicant has not identified any errors in law nor identified any erroneous

findings of fact which the GD may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[13] While an Applicant is not required to prove the grounds of appeal for the purposes of a leave application, at the very least, an applicant ought to set out some reasons which fall into the enumerated grounds of appeal. The Application is deficient in this regard, and I am satisfied that the appeal has no reasonable chance of success.

CONCLUSION

[14] The Application is refused.

Shu-Tai Cheng
Member, Appeal Division