

**Citation: *M. A. v. Canada Employment Insurance Commission*, 2015 SSTAD 1043**

**Date: September 2, 2015**

**File number: AD-15-929**

**APPEAL DIVISION**

**Between:**

**M. A.**

**Applicant**

**and**

**Canada Employment Insurance Commission**

**Respondent**

**Decision by: Pierre Lafontaine, Member, Appeal Division**

## **REASONS AND DECISION**

### **DECISION**

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

### **INTRODUCTION**

[2] On June 12, 2015, the General Division of the Tribunal determined that:

- A disentitlement imposed on the Applicant pursuant to sections 9 and 11 of the *Employment Insurance Act* (the “*Act*”) and section 30 of the *Employment Insurance Regulations* (the “*Regulations*”) was justified for failing to prove he was unemployed;
- A warning was issued in accordance with sections 38 and subsection 41(1) of the *Act* for making a misrepresentation by knowingly providing false or misleading information to the Respondent.

[3] The Applicant requested leave to appeal to the Appeal Division on August 19, 2015. The Tribunal finds that the request for leave to appeal was filed within the legal delays.

### **ISSUE**

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

### **THE LAW**

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*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”.

[6] 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”.

## ANALYSIS

[7] 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.

[8] In regards to the application for permission to appeal, the Tribunal needs to be satisfied that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] The Applicant, in his application for leave, states that he once again wants to submit that he did not know that he was to report his business given that he was not earning a salary. He asks that the amount owing be reduced by 50% since it is difficult to repay said amount with his current salary.

[10] An appeal to the Appeal Division of the Tribunal is not a *de novo* hearing, where a party can represent evidence and hope for a new favorable outcome.

[11] Unfortunately for the Applicant, he has not identified any errors of jurisdiction or law nor identified any erroneous findings of fact which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[12] 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.

[13] After review of the appeal file, the decision of the General Division and the arguments of the Applicant in his application for leave to appeal, the Tribunal is not satisfied that the appeal has a reasonable chance of success.

### **CONCLUSION**

[14] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

*Pierre Lafontaine*  
Member, Appeal Division