

Citation: *Z. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 1082

Date: September 13, 2015

File number: AD-15-901

APPEAL DIVISION

Between:

Z. S.

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 July 2, 2015, the General Division of the Tribunal determined that:

- The Respondent acted judicially when it did not allow the Applicant's request to extend the 30 day period to make a request for reconsideration of a decision under section 112 of the *Employment Insurance Act* (the "*Act*") and section 1 of the *Reconsideration Request Regulations* (the "*Reconsideration Regulations*").

[3] The Applicant requested leave to appeal to the Appeal Division on August 12, 2015, after receiving the General Division decision on July 12, 2015.

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] 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 her leave to appeal application, would essentially like to represent her case with new medical evidence. She submits she has been very ill since 2012 and has had multiple medical issues.

[10] Unfortunately, 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] The General Division did consider in its decision that the Applicant was going through a severe illness that required several episodes of admission to the hospital but also considered that the Respondent acted judicially when it concluded that the Applicant did not provide a reasonable explanation nor did her reasons constitute special circumstances in order to extend the reconsideration period.

[12] In her application for leave to appeal, the Applicant has not identified any errors of jurisdiction or any failure by the General Division to observe a principle of natural justice. She has not identified errors in 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.

[13] After reviewing the appeal docket, the decision of the General Division and the arguments of the Applicant, 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