

Citation: *R. H. v. Canada Employment Insurance Commission*, 2015 SSTAD 1144

Appeal No. AD-15-943

BETWEEN:

R. H.

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: September 28, 2015

DECISION: Leave to appeal granted

DECISION

[1] On July 23, 2015, a General Division member determined that the Applicant should not receive an extension of time to appeal. In due course, the Applicant filed an application for leave to appeal from this discretionary decision 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] Among other arguments, the Applicant submits that he never received a July 15, 2015, letter from the Tribunal asking for submissions on the reasons for his late appeal to the General Division. He says that he did not mean to discontinue his appeal, and appears to be arguing that if he had received the letter he would have provided a satisfactory explanation for his delay.

[5] Based upon the above, I conclude that this application has a reasonable chance of success and that this application for leave to appeal must be granted. I note, however, that I expect the Applicant to make further submissions setting out a full explanation for his delay in filing on time with the General Division.

Mark Borer

Member, Appeal Division