

Citation: *M. M. v. Canada Employment Insurance Commission*, 2015 SSTAD 1211

Appeal No. AD-15-998

BETWEEN:

M. M.

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: October 14, 2015

DECISION: Leave to appeal granted

DECISION

[1] On April 8, 2015, I (like Umpire Marin before me) ordered that this matter be returned to the General Division solely for reconsideration of the various Commission calculations. On July 29, 2015, a member of the General Division determined that the Applicant's appeal should be dismissed. In due course, the Applicant filed an application for leave to appeal to the Appeal Division. This is the Applicant's third appeal to the Appeal Division or its predecessor tribunal.

[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] The Applicant submits, among other arguments, that the General Division member ignored his arguments in coming to his decision.

[5] Although I make no findings on the matter, I note that on the face of the record the General Division member appears to have disregarded my direction to reconsider only the Commission calculations, and instead made findings on other issues. I also note (again without making a finding) that on the face of the record, there does not appear to be a stated rationale for the member's acceptance of the Commission calculations.

[6] At the very least, this application has a reasonable chance of success and leave to appeal must be granted.

Mark Borer

Member, Appeal Division