

Citation: *D. C. v. Canada Employment Insurance Commission*, 2015 SSTAD 1212

Appeal No. AD-15-1055

BETWEEN:

**D. C.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: October 14, 2015

DECISION: Leave to appeal granted

## DECISION

[1] On August 18, 2015, a Vice-chairperson of the General Division determined that the appeal of the Applicant from the previous determination of the Commission should be dismissed. In due course, the Applicant filed an application for leave to appeal 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] In his application for leave to appeal, the Applicant outlines his views as to how the General Division member made legal and factual errors in dismissing his appeal.

[5] In his decision, the Vice-chairperson stated that:

Regarding the job interview, in order for the exception under paragraph 55 (1) (e) [of the *Employment Insurance Regulations*] to apply, the interview must be conducted in another country for a job in that country. To attend a job interview by electronic means for a job in Canada does not fall within the exception as per 55 (1) (e). In other words, a claimant cannot leave Canada to apply for a job in Canada.

[6] Although I make no finding on the matter, I note that the above legal interpretation is a novel one for which no jurisprudence was cited by the Vice-chairperson. I therefore find that the Applicant's challenge to the Vice-chairperson's decision has a reasonable chance of success and that leave to appeal must be granted.

*Mark Borer*

Member, Appeal Division