

Citation: *D. L. v. Canada Employment Insurance Commission*, 2015 SSTAD 1242

Appeal No. AD-15-1101

BETWEEN:

D. L.

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 22, 2015

DECISION: Leave to appeal granted

DECISION

[1] On August 26, 2015, a member of the General Division determined that the Applicant's appeal should be dismissed. On October 9, 2015, the Applicant filed an application for leave to appeal to the Appeal Division.

[2] The Applicant's application to the Appeal Division was filed late. Although he has not offered any explanation for the delay, I note that as the Applicant submits that the decision was communicated to him on September 3, 2015, the delay was a short one. I also note that the Applicant contacted the Tribunal several times for assistance prior to filing his appeal, indicating a continuing intention to appeal. Taking this into account, as well as the general merit of the appeal as discussed below, in the interests of justice I allow further time within which this application can be made.

[3] 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.

[4] The *Act* also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[5] In his submissions, the Applicant outlines his views as to how the General Division member made legal and factual errors in dismissing his appeal. Specifically, he alleges that the General Division incorrectly applied the established jurisprudence and the *Employment Insurance Act* in determining that the Respondent had left his employment voluntarily without just cause.

[6] If proven, these pleadings could result in a successful appeal. Accordingly, I find that this appeal has a reasonable chance of success and this application for leave to appeal should be granted.

Mark Borer

Member, Appeal Division