

Citation: *J. K. v. Canada Employment Insurance Commission and Eco-Shift Power Corp.*,
2015 SSTAD 1255

Appeal No. AD-15-247

BETWEEN:

J. K.

Applicant

and

Canada Employment Insurance Commission and Eco-Shift Power Corp.

Respondents

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER : Mark BORER

DATE OF DECISION: October 26, 2015

DECISION: Leave to appeal granted

DECISION

[1] On October 22, 2014, a member of the General Division determined that the appeal of the Employer from the previous determination of the Commission should be allowed. 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 states that he never received notice of the hearing before the General Division member. He asks that a new hearing be held so he can make his case in full.

[5] To assist me in my deliberations, I requested submissions from the parties. The Applicant made further submissions reinforcing his original points. The Commission, having considered the application, submitted that in the circumstances a new hearing before the General Division should be ordered. The Employer did not respond.

[6] I find that this application raises appeal grounds that have a reasonable chance of success. For that reason, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division