

Citation: *T. C. v. Canada Employment Insurance Commission*, 2015 SSTAD 1289

Appeal No. AD-14-192

BETWEEN:

T. C.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: November 5, 2015

DECISION: Appeal allowed

DECISION

[1] On consent, the appeal is allowed. The case will be returned to the General Division for reconsideration.

INTRODUCTION

[2] On February 4, 2014, a General Division member determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. The Appellant appealed that decision to the Appeal Division and leave to appeal was granted.

[3] This appeal was decided on the record.

ANALYSIS

[4] The Appellant submits that after receiving his notice of hearing in mid-January 2014, he called the Tribunal to request a new hearing time because he would be out of the country at the scheduled time. The Appellant claims he was told that a new hearing would be scheduled.

[5] Unfortunately, there is no Tribunal record of this call being made. The member, who was not informed of any such call, proceeded on the basis that the Appellant had personally signed for the notice of hearing and thus had received proper notice. As there was no reason at the time for the member to do otherwise, she cannot be faulted for this.

[6] I do note, however, that the Appellant attempted to provide evidence in support of his allegation that he had called the Tribunal, but that this evidence was not accepted by Tribunal staff because the General Division decision had already been rendered.

[7] The Commission, having considered the file and the interests of justice, agrees with the Appellant that this matter should be returned to the General Division for a new hearing.

[8] It has long been held that the right to be heard is a fundamental natural justice right and it is well established that the denial of this right is a breach of the principles of natural justice that constitutes grounds for a new hearing.

[9] As I have no reason to disbelieve the submissions of the Appellant, I agree with the Commission that it is better to err on the side of caution in the particular circumstances of this case. I therefore allow the appeal so that the Appellant can plead his case in full.

CONCLUSION

[10] On consent, the appeal is allowed. The case will be returned to the General Division for reconsideration.

Mark Borer

Member, Appeal Division