

Citation: *W. P. v. Canada Employment Insurance Commission*, 2015 SSTAD 1326

Date: November 13, 2015

File number: AD-15-1102

APPEAL DIVISION

Between:

W. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

Decision by: Pierre Lafontaine, Member, Appeal Division

REASONS AND DECISION

DECISION

[1] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On September 8, 2015, the General Division of the Tribunal determined that:

- The request under section 66 of the *Department of Employment and Social Development Act* (the “*DESD Act*”) for the decision in GE-14-3250 to be rescinded or amended was to be dismissed.

[3] The Applicant requested leave to appeal to the Appeal Division on October 13, 2015.

ISSUE

[4] The Tribunal must decide if the appeal has a reasonable chance of success.

THE LAW

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*DESD Act*”), “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the *DESD Act* provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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.

[8] In regards to the application for permission to appeal, the Tribunal needs to be satisfied that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] The Applicant submits the following arguments in support of her request for permission to appeal:

- a) The General Division failed to observe a principle of natural justice by ignoring the Respondent's representation in GD6-1 and by not taking the document into account when the Respondent did not respond to a request from the General Division for representations for a rehearing that was sent by letter, GD5-1, dated July 3, 2015, from the General Division to the Respondent;
- b) The General Division erred in law by not accepting the conceding of the issue by the Respondent detailed in GD6-1.
- 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; that being the request by the Respondent in GD6-1 that the decision be amended because the Respondent would like to concede and allow the appeal on the issue of extension of the benefit period under section 10 of the *EI Act*.

[10] After reviewing the docket of appeal, the decision of the General Division, the arguments of the Applicant and the submissions of the Respondent, the Tribunal finds that the appeal has a reasonable chance of success.

[11] The Applicant has set out reasons which fall into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

CONCLUSION

[12] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine
Member, Appeal Division