

Citation: *S. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 1312

Appeal No. AD-15-1023

BETWEEN:

S. S.

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: November 10, 2015

DECISION: Leave to appeal granted

DECISION

[1] On August 14, 2015, a member of the General Division determined that the Applicant's appeal 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 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 member ignored evidence and incorrectly applied the established jurisprudence in determining that he did not have just cause to voluntarily leave his employment and that a penalty and a notice of violation should be imposed.

[5] Although I make no finding on the matter, I note that on the face of the record the General Division member may have erred in the manner suggested by the Applicant.

[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