

Citation: *F. B. v. Canada Employment Insurance Commission*, 2015 SSTAD 1380

Appeal No. AD-15-1176

BETWEEN:

F. B.

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: December 1, 2015

DECISION: Leave to appeal granted

DECISION

[1] On September 21, 2015, a member of the General Division determined that the appeal of the Applicant from the previous determination of the Commission 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 application for leave to appeal, 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 erred in determining that he had willfully committed an act of misconduct even though the criminal case resulting from the alleged act has not yet been resolved in court.

[5] Although I make no finding on the matter, I note that if proven these submissions could ground a successful appeal. I therefore find that this application has a reasonable chance of success. For that reason, this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division