

Citation: *Canada Employment Insurance Commission v. E. M.*, 2015 SSTAD 1451

Appeal No. AD-15-1308

BETWEEN:

Canada Employment Insurance Commission

Applicant

and

E. M.

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: December 18, 2015

DECISION: Leave to appeal granted

DECISION

[1] On November 23, 2015, the Vice-chairperson of the Employment Insurance Section of the General Division determined that the appeal of the Respondent from the previous determination of the Commission should be “dismissed, but with modifications”. In due course, the Commission filed a request 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 their submissions, the Commission outlines their views as to how the Vice-chairperson made legal and factual errors in his decision. Specifically, they allege that the Vice-chairperson incorrectly applied the established jurisprudence and the *Employment Insurance Act* in determining that the Respondent was entitled to receive benefits for three days while out of Canada, and provide particulars to that effect.

[5] 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