Citation: *S. G. v. Canada Employment Insurance Commission*, 2015 SSTAD 1469

Appeal No. AD-15-1142

BETWEEN:

S. G.

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 22, 2015

DECISION: Leave to appeal refused

DECISION

[1] On September 18, 2015, a member of the General Division dismissed the Applicant's appeal from the previous determination of the Commission. In due course, the Applicant filed an application requesting leave to appeal this decision 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 the Applicant stated that the General Division member made an erroneous finding of fact, and proceeded to re-state many of the points he raised before the General Division, including questioning the evidence given by his Employer and continuing to assert that the member erred in making certain findings regarding the Applicant's living arrangements. The Applicant asked "…to go over all the evidence, or some of that may help me in my case because it may have been looked at incorrectly [sic]".

[5] Essentially, this is a request that I re-weigh the evidence and come to a conclusion different than that reached by the General Division.

[6] On its own, this does not represent an appeal that has a reasonable chance of success. Therefore, I asked for further submissions from the Applicant. Specifically, I asked that he provide full and detailed grounds of appeal as required by the *Act*. I noted that if he did not do so, his appeal could be refused without further notice to him.

[7] The Applicant responded with a letter which repeated the evidence he provided to the General Division and again alleged that the evidence given by his Employer was incorrect. Although he referenced the *Act*, he continued to ask that I re-weigh the evidence and come to a conclusion more favourable to him.

[8] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the *Act* has been made by the General Division and if so to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[9] It is not sufficient for an Applicant to plead that the General Division member was mistaken in his or her conclusions and ask the Appeal Division for a different outcome. In order to have a reasonable chance of success, the Applicant must explain in some detail how, in their view, at least one reviewable error set out in the *Act* has been made. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer
Member, Appeal Division