Citation: *C. C. v. Canada Employment Insurance Commission*, 2015 SSTAD 1481

Appeal No. AD-15-1193

BETWEEN:

C. C.

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 30, 2015

DECISION: Leave to appeal refused

DECISION

[1] On June 29, 2015, a member of the General Division dismissed the Applicant's appeal from the previous determination of the Commission. On September 17, 2015, the member issued an amended decision. In due course, the Applicant filed an application requesting leave to appeal this amended 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. The Applicant added that "…[t]he tribunal is ruling against me based on faulty information…" and objected to the evidence provided by the Employer.

[5] Noting that the Applicant's appeal was not complete because the grounds of appeal were not sufficiently detailed, Tribunal staff contacted the Applicant by letter and asked for further details. Specifically, the Tribunal asked that he provide full and detailed grounds of appeal as required by the *Act*, and provided him with examples of what constitutes grounds of appeal. The Tribunal letter also noted that if he did not do so, his application could be refused.

[6] The Applicant responded with a letter clarifying his views, which stated that:

> The General Division made an important error regarding the facts contained in the appeal file. I firmly believe that all the facts that I stated were not taken into consideration and only the employer facts were given credit [sic].

[7] Although the Applicant references the *Act*, his application is essentially a request that I re-weigh the evidence and come to a conclusion different than that reached by the General Division.

[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