



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. H. v. Canada Employment Insurance Commission*, 2016 SSTADEI 14

Appeal No. AD-15-1127

BETWEEN:

N. H.

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: January 13, 2016

DECISION: Leave to appeal granted

DECISION

[1] On September 14, 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 (and in further submissions requested by the Tribunal), the Applicant outlines his views as to how the General Division member erred in fact in determining that the Applicant had received certain moneys that needed to be allocated.

[5] I note that on the face of the record the General Division member may have erred by not explaining the basis of his decision. The member may also have erred by failing to determine whether or not the Applicant made a false statement knowingly, as the member was required to do.

[6] Although I make no finding on these matters, if they are found to be true this appeal could succeed. I therefore find that this application has a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division