



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *N. G. v. Canada Employment Insurance Commission*, 2016 SSTADEI 15

Appeal No. AD-15-1342

BETWEEN:

**N. G.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: January 13, 2016

DECISION: Leave to appeal granted

**Canada**

## **DECISION**

[1] On November 19, 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 submits that the General Division member erred in fact by finding that he was resident in Moncton, New Brunswick rather than Chamcook, New Brunswick at the time of the start of his benefit period. If true, the Applicant alleges that he would need only 525 insurable hours to qualify for benefits, hours which he in fact has.

[5] The Applicant does not appear to have raised this argument before the General Division member. I do note, however, that the address given by the Applicant in his initial employment insurance application was in Fredericton, New Brunswick rather than Chamcook or Moncton.

[6] That being said, I also observe that on the face of the record the General Division member may not have considered and applied *Canada (Attorney General) v. Jewett*, 2013 FCA 243, and thereby erred in determining the correct number of insurable hours required by the Applicant to qualify for benefits.

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

[8] In order to expedite the resolution of this appeal, I would ask that the Commission turn their mind to the above arguments in their submissions.

*Mark Borer*

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Member, Appeal Division