



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *D. T. v. Canada Employment Insurance Commission*, 2016 SSTADEI 18

Appeal No. AD-15-1097

BETWEEN:

**D. T.**

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 14, 2016

DECISION: Leave to appeal granted

**Canada**

## **DECISION**

[1] On September 20, 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* (the *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 there was “misinformation” regarding the facts but did not articulate any particular error on the part of the General Division.

[5] In order to better understand the true nature of the Applicant’s appeal, 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.

[6] The Applicant replied, and provided additional details regarding his appeal. He stated that, contrary to the General Division decision, his hours and therefore his salary

had already been reduced before he left his employment. As this was an important part of the General Division decision, he submits that this was a reviewable error of fact.

[7] Although I make no finding on this matter, I agree that if proven this could allow a successful appeal. As there is evidence in the file that may indicate that the Applicant is correct, I find that this application has a reasonable chance of success and that therefore this application for leave to appeal must be granted.

*Mark Borer*

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Member, Appeal Division