



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. T. v. Canada Employment Insurance Commission*, 2016 SSTADEI 26

Appeal No. AD-15-868

BETWEEN:

J. T.

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 19, 2016

DECISION: Leave to appeal refused

DECISION

[1] On September 22, 2014, a member of the General Division dismissed the Applicant's appeal from the previous determination of the Commission. After some administrative details, 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* (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 the Applicant stated that the General Division member erred, and proceeded to issue a blanket statement that he had no knowledge of any overpayment. The Applicant further suggested that perhaps it was a case of mistaken identity. Essentially, he is asking that I re-weigh the evidence and render a more favourable decision.

[5] 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*.

[6] Noting that the Applicant's appeal was 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.

[7] The Applicant did not respond by the deadline.

[8] 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