



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. K. v. Canada Employment Insurance Commission*, 2016 SSTADEI 21

Appeal Nos. AD-14-161, AD-14-162, AD-14-163, AD-14-164, and AD-14-165

BETWEEN:

R. K.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: January 19, 2016

DECISION: Appeal dismissed

Canada

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] On February 3, 2014, the General Division dismissed five of the Appellant's appeals against previous determinations of the Commission.

[3] In due course, the Appellant filed an application for leave to appeal with the Appeal Division against each of these decisions and leave to appeal was granted.

[4] Not seeing any injustice that might be caused and in the belief that it would streamline matters and be in the interests of justice, I have joined these five cases together under s.13 of the *Social Security Tribunal Regulations*. This decision applies to all five.

[5] On November 3, 2015, a teleconference hearing was held. Both the Appellant and the Commission attended and made submissions.

THE LAW

[6] According to subsection 58(1) of the *Department of Employment and Social Development Act*, 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.

ANALYSIS

[7] This case revolves around natural justice and the right to be heard, as well as the allocation of earnings and the issuance of a warning letter.

[8] In his Application for leave to appeal, the Appellant alleged that he had contacted the Tribunal on the day of his General Division hearing, indicated he would not be available, and was given a new hearing date. He also stated that the notice of hearing was not clear that he had to call into the teleconference, so he instead simply sat next to the phone and waited to be called.

[9] Although the Tribunal had no record of his alleged call on January 14, 2014, I granted leave to appeal on the basis that the Appellant's right to be heard might have been infringed.

[10] In oral argument before me, however, the Appellant admitted that the Tribunal had not in fact given him a new hearing date. He further admitted that although he did call as he stated earlier, he did not request a new date at that time. The Appellant did not explain why his initial application stated the contrary.

[11] This does not speak well for the credibility of the Appellant.

[12] The Appellant also did not explain why he did not call the General Division for his hearing on January 14, 2014, given that the instructions on the notice of hearing are extremely clear, except to say that he had been under a lot of stress due to a messy divorce.

[13] On the merits of the matter, the Appellant made blanket denials but did not allege any particular error on the part of the General Division. He did state, however, that some of the issues in these five appeals had been ruled upon previously.

[14] Notwithstanding that neither the Tribunal nor the Commission had any record of this, on consent I granted the Appellant three weeks to produce these decisions.

[15] Since then, there have been no further communications from the Appellant and no documents have been submitted. I must conclude that no such decisions exist.

[16] This also does not speak well for the credibility of the Appellant.

[17] The Commission, for their part, opposes this appeal. They do not believe that the natural justice rights of the Appellant have been violated, and submit that the General Division correctly found that the Appellant did not declare earnings that he received while on claim. For this, a warning letter was issued. They ask that the appeal be dismissed.

[18] Given the above, I have no hesitation in saying that I reject the Appellant's arguments that his natural justice rights were violated. I also find that he has raised no other substantive ground of appeal.

[19] Regardless, I have reviewed the General Division decision. I find that it correctly stated the law, made findings of fact supported by the evidence, applied the law in a reasonable manner to those facts, and came to conclusions that were entirely reasonable.

[20] There is no reason for the Appeal Division to intervene.

CONCLUSION

[21] For the above reasons, the appeal is dismissed.

Mark Borer

Member, Appeal Division