



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. S. v. Canada Employment Insurance Commission*, 2016 SSTADEI 46

Appeal No. AD-13-642

BETWEEN:

D. S.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: January 27, 2016

DECISION: Appeal dismissed

Canada

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] On May 2, 2013, a panel of the board of referees (the Board) determined that the appeal of the Appellant from the previous determination of the Commission should be dismissed. The Appellant appealed that decision to the Appeal Division and leave to appeal and an extension of time was granted.

[3] Due to the unusual circumstances detailed below, this appeal was decided on the basis of the written material in the absence of the Appellant.

ANALYSIS

[4] On December 30, 2015, I issued the following order:

On July 16, 2015, a teleconference hearing was held but the Appellant did not appear. Subsequently, the Appellant contacted the Tribunal and indicated that as he was away when the hearing was held, he would like a new hearing. Tribunal staff asked him to make this request in writing, but he failed to do so. The Tribunal, at my request, contacted the Appellant again in September to remind him to do so. Although the Appellant said that he would send such a written request, no request has yet been received. A further reminder was sent by registered mail, but this letter was left unclaimed by the Appellant. The patience of the Tribunal has limits, and these limits have now been reached. If a written request, complete with reasons, is not received by January 11, 2016, a final decision will be issued on this file without further notice to the parties.

[5] To date, the Tribunal has not received any such request. Nor has the Tribunal received any further details regarding the substance of the Appellant's appeal. As such, I have decided this appeal without an additional hearing.

[6] The Appellant argues that as his dispute with his Employer is in arbitration, the results of that arbitration should be considered by the Tribunal.

[7] The Commission opposed the appeal, and supports the finding of the Board that the Appellant was dismissed for misconduct. They are not aware of any arbitration.

[8] As noted above, no details of the alleged arbitration have been provided to the Tribunal. I also observe that the Appellant admitted to the Commission (and the Board found) that he consumed illegal drugs which were detected in a random drug test administered by his Employer. This was contrary to the terms of his employment (which he had voluntarily agreed to due to a previously identified substance abuse problem), and so he was terminated. Whatever the results of the arbitration, the fact remains that the Appellant has admitted committing the act of misconduct that led to his termination.

[9] Having reviewed the General Division decision, I can find no reviewable error. 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.

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

CONCLUSION

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

Mark Borer

Member, Appeal Division