



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *W. F. v. Canada Employment Insurance Commission*, 2016 SSTADEI 53

Appeal No. AD-16-131

BETWEEN:

W. F.

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: February 1, 2016

DECISION: Leave to appeal refused

Canada

DECISION

[1] On November 19, 2015, the Vice-chairperson of the General Division Employment Insurance Section determined that the Applicant's appeal had been filed late, but allowed an extension of time. Even though this decision was in the Applicant's favour, 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 states (among other arguments) that his appeal was not filed late, and that he did not request an extension of time. He also argues that he received no hearing regarding the extension of time, and that he was not notified of any such hearing.

[5] It is important to note once again that the Applicant was successful at the General Division. It is therefore not clear to me why he has appealed this decision to the Appeal Division. No remedy I could provide would be of any practical or legal value to the Applicant.

[6] I do not believe that the Applicant is asking that I overturn the General Division and order that he not be granted the extension of time he needed to complete his appeal.

[7] Further, I note that the decision under appeal is an interlocutory decision. The Courts have repeatedly stated (such as in *Szciecka c. Canada (Ministre de l'Emploi et de l'Immigration)*, 1993 CarswellNat 200), that there should be no appeal or immediate judicial review of an interlocutory decision (meaning a decision that is not the final ruling in an appeal) except in exceptional circumstances. This is because if interlocutory appeals were permitted to be filed on a regular basis it would increase delays and expenses, and may even interfere with the sound administration of justice and ultimately bring the administration of justice into disrepute.

[8] The Applicant did not identify any exceptional circumstances in his application.

[9] Given the above, and noting (again) that the decision under appeal was entirely in the Applicant's favour, I find that this application has no reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division