



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *B. J. v. Canada Employment Insurance Commission*, 2016 SSTADEI 41

Appeal No. AD-15-1226

BETWEEN:

**B. J.**

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 26, 2016

DECISION: Leave to appeal granted

**Canada**<sup>🇨🇦</sup>

## **DECISION**

[1] On September 25, 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 the General Division erred in its understanding and application of the law surrounding whether or not certain earnings were “payable” within the meaning of the jurisprudence and legislation.

[5] In order to better understand the true nature of the Applicant’s appeal, I asked for further submissions from the Applicant. The Applicant replied, and provided additional details.

[6] Although I make no finding on the merits, I agree that the Applicant has raised a potential error of law that if proven could allow a successful appeal. I therefore find that this application has a reasonable chance of success and that this application for leave to appeal must be granted.

*Mark Borer*

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Member, Appeal Division