



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. K. v. Canada Employment Insurance Commission and Eco-Shift Power Corp.*,
2016 SSTADEI 48

Appeal No. AD-15-247

BETWEEN:

J. K.

Appellant

and

Canada Employment Insurance Commission and Eco-Shift Power Corp.

Respondents

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: January 27, 2016

DECISION: Appeal allowed

Canada

DECISION

[1] The appeal is allowed. The case will be returned to the General Division for reconsideration.

INTRODUCTION

[2] On October 22, 2014, a General Division member determined that the appeal of the Employer from the previous determination of the Commission should be allowed. The Appellant appealed that decision to the Appeal Division and leave to appeal was granted.

[3] This appeal was decided on the record.

ANALYSIS

[4] In granting leave to appeal, I stated at paragraphs 4 and 5 that:

In his application for leave to appeal, the Applicant states that he never received notice of the hearing before the General Division member. He asks that a new hearing be held so he can make his case in full.

To assist me in my deliberations, I requested submissions from the parties. The Applicant made further submissions reinforcing his original points. The Commission, having considered the application, submitted that in the circumstances a new hearing before the General Division should be ordered. The Employer did not respond.

[5] In fresh submissions, the Appellant continues to maintain his position. Likewise, the Commission continues to agree that a new hearing should be ordered.

[6] The Employer has not made any further submissions.

[7] It has long been held that the right to be heard is a fundamental natural justice right and it is well established that the denial of this right is a breach of the principles of natural justice that constitutes grounds for a new hearing.

[8] As correctly noted by the General Division, the Appellant was sent a letter informing him that his Employer had appealed the Commission decision to grant him benefits but no reply was received. Because of that, the General Division proceeded without the Appellant. I can find no fault in the member doing so.

[9] However, as I have no reason to disbelieve the submissions of the Appellant, I agree with the Commission that it is better to err on the side of caution in the particular circumstances of this case. It may well be that the letter to the Appellant was lost in transit. I therefore allow the appeal so that the Appellant can plead his case in full.

CONCLUSION

[10] The appeal is allowed. The case will be returned to the General Division for reconsideration.

Mark Borer

Member, Appeal Division