Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *E. W. v. Canada Employment Insurance Commission,* 2016 SSTADEI 111

Appeal No. AD-15-1314

BETWEEN:

E. W.

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 26, 2016

DECISION: Leave to appeal refused

Canada

DECISION

[1] On November 16, 2015, a member of the General Division dismissed the Applicant's appeal from the previous determination of the Commission. In due course, the Applicant filed an application requesting 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] Although the underlying reason that the Applicant did not receive her employment insurance benefits was that she allegedly left her employment without just cause, the actual issue under appeal to the General Division was the Commission refusal to grant an extension of time for the Applicant to file a request for reconsideration.

[5] I note that I do not have jurisdiction to address the issue of voluntary leaving. The only issue before me is whether or not the Applicant's application for leave to appeal the General Division decision has a reasonable chance of success. Correctly, the General Division decision solely addressed whether or not the Commission exercised its discretion judicially in refusing the extension of time.

[6] In her application the Applicant re-stated the arguments she had previously expressed to the General Division member regarding the underlying voluntary leaving decision. She also re-stated her evidence that she did not request reconsideration earlier because she was waiting to finalize a settlement with her Employer.

[7] The Applicant did not reference the grounds of appeal or explain in what manner the member erred, and appeared to be asking that I re-weigh the evidence and come to a different conclusion than that already rendered by the General Division member.

[8] Noting that the Applicant's appeal was not complete because the grounds of appeal were not sufficiently detailed, I requested that Tribunal staff contact the Applicant by letter and ask for further details. Specifically, the Tribunal letter asked that she provide full and detailed grounds of appeal as required by the Act, and provided her with examples of what constitutes grounds of appeal. The Tribunal letter also noted that if she did not do so, her application could be refused without further notice.

[9] The Applicant did not file any further submissions.

[10] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the Act has been made by the General Division and if so to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[11] In order to have a reasonable chance of success, the Applicant must explain in some detail how in her view at least one reviewable error set out in the Act has been made. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division