



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. A. v. Canada Employment Insurance Commission*, 2016 SSTADEI 184

Tribunal File Number: AD-15-900

BETWEEN:

L. A.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal decision

DECISION BY:: Pierre Lafontaine

HEARD ON: March 31, 2016

DATE OF DECISION April 7, 2016

REASONS AND DECISION

DECISION

[1] The appeal is granted and the file is returned to the General Division of the Tribunal (Employment Insurance Section) for a new hearing.

INTRODUCTION

[2] On July 14, 2015, the General Division of the Tribunal determined that:

- The decision of the Respondent to deny the request to extend the 30 day period to make a request for reconsideration of a decision under section 112 of the *Employment Insurance Act* (the “*Act*”) and section 1 of the *Reconsideration Request Regulations* (the “*Reconsideration Regulations*”), should be upheld.

[3] The Appellant requested leave to appeal to the Appeal Division on August 12, 2015. Leave to appeal was granted on September 17, 2015.

ISSUE

[4] The Tribunal must decide if the General Division erred when it upheld the decision of the Respondent to deny the request to extend the 30 day period to make a request for reconsideration of a decision under section 112 of the *Act* and section 1 of the *Reconsideration Regulations*.

THE LAW

[5] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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.

ANALYSIS

[6] The Appellant argues that he was told by the information line of the Tribunal that if there were any conflicts or services needed, he would be contacted directly by telephone. He was convinced that he would be contacted by the Tribunal for the hearing of his appeal. He submits that he was misinformed by the information line on the upcoming steps of the Tribunal. This explains why he was not present before the General Division.

[7] In the interest of fairness and a possible breach of natural justice, namely the right to be heard, the Respondent recommends that the decision of the General Division be set aside and the Appellant's file be returned to the General Division so the case can be heard anew and he can be given the opportunity to participate in a new hearing.

[8] It is the Respondent's position that the Appellant has grounds for appeal under subsection 58(2)(a) of the *DESD Act*.

[9] The Tribunal questioned the Appellant during the appeal hearing and found no reason to doubt his credibility. The jurisprudence of the Tribunal has decided that the slightest suspicion that a principle of natural justice has been breached is sufficient to refer the matter back to the General Division. This appears to be such a case.

[10] Considering the arguments raised by the Appellant, and the position of the Respondent, the Tribunal agrees that the appeal must be granted.

CONCLUSION

[11] The appeal is allowed. The case will be returned to the General Division of the Tribunal (Employment Insurance Section) for reconsideration by a Member.

[12] The Tribunal orders that the decision of the General Division dated July 14, 2015, be removed from the file.

Pierre Lafontaine

Member, Appeal Division