



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *M. P. v. Canada Employment Insurance Commission*, 2016 SSTADEI 186

Tribunal File Number: AD-16-189

BETWEEN:

M. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division– Leave to Appeal Decision

DECISION BY:: Pierre Lafontaine

DATE OF DECISION: April 7, 2016

REASONS AND DECISION

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On December 18, 2015, the Tribunal's General Division found that:

- The Applicant had not accumulated enough hours of insurable employment to establish a claim for Employment Insurance benefits under section 93 of the *Employment Insurance Regulations* (Regulations) or section 7 of the *Employment Insurance Act* (Act).

[3] On January 19, 2016, the Applicant filed an application for leave to appeal to the Appeal Division.

ISSUE

[4] The Tribunal must determine whether the appeal has a reasonable chance of success.

THE LAW

[5] As stated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, “[a]n appeal to the Appeal Division may only be brought if leave to appeal is granted” and the Appeal Division “must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the *Department of Employment and Social Development Act* states that “[l]eave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Under subsection 58(1) of the *Department of Employment and Social Development Act*, the following are the only grounds of appeal:

- (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 or order, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[8] An application for leave to appeal is a preliminary step to a hearing on the merits. It is a first hurdle for the Applicant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the application for leave to appeal stage, the Applicant does not have to prove her case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the *Department of Employment and Social Development Act*, whether there is a question of law, fact, or jurisdiction to which the response might justify setting aside the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[14] In her application for leave to appeal, the Applicant states that her file contains numerous errors. She believes that she is more than capable to prove this. She emphasizes that the member seemed to agree with her. She states that the General Division

overlooked her submissions given that it based its decision on the Respondent and its laws. She maintains that the laws should not be applied if her employer has made numerous errors. She believes that it is unfair and unreasonable that there is no law to defend her; her arguments should carry more weight.

[13] On February 5, 2016, the Tribunal requested in writing that the Applicant provide by February 29, 2016, detailed grounds for her appeal to support her application for leave to appeal under section 58(1) of the *Department of Employment and Social Development Act*.

[14] On March 1, 2016, the Tribunal contacted the Applicant because its request for details of February 5, 2016, had been left unanswered. The Applicant responded that she did not receive, have, or misplace the letter. She requested that a new letter be sent to her and she confirmed her address to the Tribunal.

[15] On March 8, 2016, the Tribunal requested in writing that the Applicant provide by March 18, 2016, detailed grounds for her appeal to support her application for leave to appeal under section 58(1) of the *Department of Employment and Social Development Act*.

[16] On April 7, 2016, the Applicant had yet to respond to the Tribunal's second request.

[17] In her application for leave to appeal, the Applicant states that the General Division made several errors; however, she did not specify to the Tribunal what errors were allegedly made by the General Division. Furthermore, she does not identify which of her submissions were allegedly overlooked by the General Division.

[18] Unfortunately for the Applicant, an appeal to the Appeal Division is not an appeal in which there is a *de novo* hearing, that is, a hearing where a party can present his or her evidence again and hope for a favourable decision.

[19] The Tribunal finds that, despite the specific requests from the Tribunal on February 5 and March 8, 2016, the Applicant did not raise any questions of law, fact, or jurisdiction of which the response might justify setting aside the decision under review.

[20] The Tribunal has no choice but to conclude that the appeal has no reasonable chance of success.

CONCLUSION

[21] Leave to appeal is refused.

Pierre Lafontaine

Member, Appeal Division