



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. M. v. Canada Employment Insurance Commission*, 2016 SSTA DEI 203

Tribunal File Number AD-16-444

BETWEEN:

T. M.

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: April 12, 2016

DECISION: Leave to appeal granted

DECISION

[1] On February 5, 2016, 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 submissions, the Appellant outlines their views as to how the General Division member made legal and factual errors in dismissing his appeal. Specifically, he alleges that the General Division incorrectly applied the established jurisprudence and the *Employment Insurance Act* in determining that Appellant did not have just cause to voluntarily leave his employment.

[5] Although I make no finding on this matter, I agree that if proven this could allow a successful appeal. As the evidence in the file discloses a factual basis upon which this argument could be made, I find that this application has a reasonable chance of success and that therefore this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division