



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *D. P. v. Canada Employment Insurance Commission*, 2016 SSTADEI 209

Tribunal File Number: AD-16-103

BETWEEN:

**D. P.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: April 15, 2016

DECISION: Leave to appeal refused

## **DECISION**

[1] On December 1, 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 this amended decision to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development Act* (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 application the Applicant stated that the General Division member "failed to refer and consider Alberta Human Rights Workplace drug and alcohol policies". He later clarified that he was appealing on the basis that his Employer did not accept that drug dependency "is protected by the Alberta Human Rights Act".

[5] 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 he provide full and detailed grounds of appeal as required by the Act, and provided him with examples of what constitutes grounds of appeal. The Tribunal letter also noted that if he did not do so, his application could be refused without further notice.

[6] The Applicant responded, and submitted that because he had a drug dependency he could not be fired for misconduct for using drugs. While he admitted that he smoked narcotics on a regular basis to help him sleep, he denied that he smokes before work. He also denied that his frequent narcotic use impacted his skills as “an amazing crane operator”. The Applicant concluded by noting that “Human rights was created for that, please don’t ignore the one good thing this country has [sic]”. No legal or factual basis was identified for the Applicant’s views.

[7] While it is clear that the Applicant disagreed with the conclusions and decision of the member, the above submissions do not disclose an appeal with a reasonable chance of success.

[8] 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*.

[9] In order to have a reasonable chance of success, the Applicant must explain in some detail how in their 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*

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Member, Appeal Division