



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. P. v. Canada Employment Insurance Commission*, 2016 SSTADEI 201

Tribunal File Number AD-16-442

BETWEEN:

A. P.

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 refused

DECISION

[1] On March 2, 2016, 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 decision 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 application the Applicant stated that he is "at the mercy of the EI rules" and that "[w]here severance monies are involved then the 2 year [benefit] period should really begin when the severance period has ended". He asks that I extend his benefit period beyond the maximum 104 weeks, and overturn the decision of the General Division member which declined to do so.

[5] Essentially, the Appellant is arguing that the General Division member should have ignored the sections of the *Employment Insurance Act* that set out the start and end date of the benefit period. Unfortunately for the Appellant, no matter how sympathetic a Tribunal member may be to a specific fact situation, they are not permitted to ignore the Act.

[6] 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*.

[7] 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

Member, Appeal Division