



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. K. v. Canada Employment Insurance Commission*, 2016 SSTADEI 235

Tribunal File Number: AD-15-1225

BETWEEN:

L. K.

Appellant

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 27, 2016

DECISION: Leave to appeal granted

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DECISION

[1] On October 13, 2015, a member of the General Division dismissed the Applicant's appeal from the previous determination of the Commission. In due course, the Appellant 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] Initially, the Applicant simply asked that the Appeal Division reconsider the earlier General Division decision.

[5] This is not a ground of appeal that has a reasonable chance of success.

[6] Noting that the Applicant's appeal was not complete because the grounds of appeal were not sufficiently detailed, Tribunal staff contacted the Applicant by letter and asked for further details. Specifically, the Tribunal letter asked that she provide full and detailed grounds of appeal as required by the Act, and provided her with examples of what constitutes grounds of appeal. The Tribunal letter also noted that if she did not do so, her application could be refused without further notice.

[7] In response, the Applicant responded with further information regarding her appeal which repeated many of the arguments previously made to the General Division.

[8] Notwithstanding this, and although I make no finding on the matter, on the face of the record the General Division member appears to have determined whether or not the Commission applied the test to establish whether or not an extension of time should be granted rather than determining whether or not the Reconsideration Request Regulations were properly followed as he should have.

[9] Because of this I am prepared to conclude that this appeal has a reasonable chance of success and that therefore leave to appeal must be granted.

Mark Borer

Member, Appeal Division