



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. D. v. Canada Employment Insurance Commission*, 2016 SSTADEI 236

Tribunal File Number: AD-16-530

BETWEEN:

S. D.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division – Leave to Appeal

DECISION BY:: Mark BORER

DATE OF DECISION: April 27, 2016

DECISION Leave to appeal granted

DECISION

[1] On March 17, 2016, a member of the General Division determined that the Appellant's request for an extension of time to file his appeal should be refused. In due course, the Appellant 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 application the Applicant submits, among other arguments, that the General Division member ignored evidence which showed that he had a continuing intention to appeal, contrary to the ultimate finding of the member.

[5] Although I make no findings on the matter, I note that on the face of the record the General Division member may indeed have erred in the manner alleged. If shown to be true, this could result in a successful appeal.

[6] I therefore find that these pleadings have a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division