



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *R. S. v. Canada Employment Insurance Commission*, 2016 SSTADEI 285

Tribunal File Number: AD-16-413

BETWEEN:

**R. S.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Appeal Decision**

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DECISION BY: Pierre Lafontaine

DATE OF DECISION: May 30, 2016

## **REASONS AND DECISION**

### **DECISION**

[1] The appeal is allowed and the matter is referred back to the General Division (Employment Insurance Section) for a hearing on each issue.

### **INTRODUCTION**

[2] On November 25, 2015, the Tribunal's General Division found that the Appellant had abandoned his appeal.

[3] On March 10, 2016, the Appellant filed an application for leave to appeal before the Appeal Division after receiving the decision on February 26, 2016. Leave to appeal was granted on March 29, 2016.

### **ISSUE**

[4] The Tribunal must determine if the General Division erred in finding that the Appellant had abandoned his appeal.

### **THE LAW**

[5] Under subsection 58(1) of the *Department of Employment and Social Development Act*, the following are the only grounds of appeal:

- (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 or order, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

## **ANALYSIS**

[6] The Applicant, in his application for leave to appeal, states that he was not notified of the hearing date before the General Division and that he did not get the opportunity to be heard. Specifically, he states that he was incarcerated at the time of the hearing and that the person assigned with keeping his affairs in order didn't do their job.

[7] In light of the evidence in the file and the possibility that there may have been a breach of natural justice pursuant to paragraph 58(1)(a) of the *Department of Employment and Social Development Act*, the Respondent does not object to the Appellant's request to rescind the General Division's decision that deemed that his appeal had been abandoned, and refer the matter back to the General Division for a new hearing on the issues.

[8] The Tribunal notes that the General Division considered the appeal to have been abandoned based on the information on file at the time of its decision. Therefore, in light of the arguments in support of the Appellant's appeal and in light of the Respondent's position, the Tribunal agrees that the appeal should be allowed.

## **CONCLUSION**

[9] The Tribunal allows the appeal and refers the matter back to the General Division (Employment Insurance Section) for a new hearing on the issues by a member.

*Pierre Lafontaine*

Member, Appeal Division