



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. M. v. Canada Employment Insurance Commission*, 2016 SSTA DEI 287

Appeal No. AD-16-549

BETWEEN:

B. M.

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: May 24, 2016

DECISION: Leave to appeal refused

DECISION

[1] On March 18, 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 to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development 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 her initial application, the Applicant did not explain why she was appealing.

[5] Noting that the Applicant's appeal was not complete because no grounds of appeal were stated, 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.

[6] The Applicant responded, stating that the General Division member "has misinterpreted and misstated the facts presented". She then repeated many of the arguments she made before the General Division, but did not reference any of the grounds of appeal set out in the *Act*.

[7] In essence, the Applicant is asking that I re-weigh the evidence and come to a different conclusion than that already reached by the General Division member.

[8] This I cannot do.

[9] 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*.

[10] 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