



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Y. H. v. Canada Employment Insurance Commission*, 2016 SSTADEI 309

Tribunal File Number: AD-16-513

BETWEEN:

Y. H.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: June 6, 2016

DECISION

[1] On March 8, 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 his initial application, the Applicant simply restated the arguments he made before the General Division member, repeated that his Employer lied, and objected to the General Division member's findings to the contrary.

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

[6] The Applicant responded by asking for a re-hearing. He complained that he did not have the opportunity to question his Employer as the Employer did not attend the General Division hearing, and again stated that his Employer lied. The Applicant also added that he did not commit any violent act in the workplace, contrary to the evidence of his Employer and as found by the member in his decision.

[7] I find that the Applicant's submissions do not reveal a reviewable error allegedly made by the General Division member. They are essentially a blanket objection to the member's decision and a request that I re-weigh the evidence and come to a different conclusion.

[8] This I cannot do.

[9] I do note, however, that the Applicant expressed in his submissions his view that the General Division member "took advantage" of him because of his poor English skills.

[10] In examining the record, I can find no evidence that the Applicant asked for or required an interpreter. The Applicant has had at least 10 phone conversations with Tribunal staff. In none of those conversations did either party note a communication barrier. Further, the Applicant's handwritten submissions are perfectly legible with only minor grammatical errors.

[11] I therefore find that there is no basis to conclude that the Applicant's natural justice rights have been breached by the Tribunal by failing to provide an interpreter.

[12] 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*.

[13] 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