



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *B. W. v. Canada Employment Insurance Commission*, 2016 SSTADEI 312

Tribunal File Number: AD-16-568

BETWEEN:

**B. W.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Mark Borer

DATE OF DECISION: June 15, 2016

## **DECISION**

[1] On March 11, 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* (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 initial application the Applicant re-stated the main argument he made before the General Division, and further stated that leave should be granted because of "the complexity of the issue" and "the need for clarification".

[5] These are not grounds of appeal that have a reasonable chance of success.

[6] Because of this, I determined that the Applicant's appeal was not complete and 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.

[7] The Applicant responded by repeating in greater detail his previously presented evidence that he was advised by his doctor to leave his employment. The Applicant did not identify any specific error on the part of the General Division member, except to note that certain specific sections of the decision “contain errors of fact and dates”. These alleged errors were not further identified.

[8] While it is clear that the Applicant disagrees with the General Division decision, I find that the Applicant’s submissions do not identify a ground of appeal that has a reasonable chance of success. In essence, this application is a blanket objection to the member’s decision and a request that I re-weigh the evidence and come to a different conclusion.

[9] This I cannot do.

[10] 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*.

[11] 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*

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Member, Appeal Division