



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. D. v. Canada Employment Insurance Commission*, 2016 SSTADEI 297

Tribunal File Number: AD-16-560

BETWEEN:

A. D.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: June 10, 2016

DECISION

[1] On March 14, 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 this decision 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] Although the application filed by the Applicant references the Act, it merely repeats many arguments already made before the General Division. Essentially, the Applicant is asking that I re-weigh the evidence and come to a conclusion more favourable to her.

[5] However, notwithstanding the above, it appears on the face of the record that the General Division member failed to make a finding on the actual question before him: whether or not the Applicant had good cause for delay in filing her reports.

[6] For this reason, I find that this appeal has a reasonable chance of success and that leave to appeal must be granted.

Mark Borer

Member, Appeal Division