



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. P. v. Canada Employment Insurance Commission*, 2016 SSTADEI 334

Tribunal File Number: AD-16-566

BETWEEN:

P. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: June 24, 2016

DECISION

[1] On March 4, 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* 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 application, the Applicant alleges that the General Division member did not fully consider her arguments. She also does not understand how the Commission, having admitted that she was available within the meaning of the *Employment Insurance Act*, could also find that she was not unemployed.

[5] Although I make no finding on the matter, I admit that there is a potential logic to the Applicant's argument that a claimant who is available (as found by the Commission) cannot also be not unemployed (as also found by the Commission), as these conditions are seemingly contrary to each other.

[6] Because of this I am prepared to conclude that this appeal has a reasonable chance of success and that therefore leave to appeal must be granted.

Mark Borer

Member, Appeal Division