



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *W. A. v. Canada Employment Insurance Commission*, 2016 SSTADEI 348

Tribunal File Number: AD-16-493

BETWEEN:

**W. A.**

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: July 4, 2016

## DECISION

[1] On February 16, 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] Initially, the Applicant repeated the facts he presented to the General Division and made a number of unsupported allegations regarding the Commission.

[5] This is not a ground of appeal that has a reasonable chance of success.

[6] Noting that the Applicant's appeal was not complete because the grounds of appeal were not sufficiently detailed, I instructed 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] In response, the Applicant responded with further information regarding his appeal which, among other arguments, pointed out for the first time that the General Division

member allegedly made a serious and material error of fact regarding the date of birth of the Applicant's daughter.

[8] Although I make no findings on the matter, on the face of the record the General Division member does appear to have made the error alleged. Since the issue under review was whether or not good cause for an antedate existed during the entire period of delay, an error regarding the date of birth of a daughter who required extensive medical care could very well be material as to the outcome of the appeal.

[9] 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