



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *X. F. v. Canada Employment Insurance Commission*, 2016 SSTADEI 350

Tribunal File Number: AD-16-561

BETWEEN:

X. F.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

Viva Media Packaging Canada Ltd.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION

**Leave to Appeal
Appeal Division**

DECISION BY: Mark Borer

DATE OF DECISION: July 7, 2016

DECISION

[1] Previously, 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 re-stated arguments that he had previously made before the General Division and asked that the Appeal Division "please reconsider my decision about EI benefit [sic]."

[5] Because of the lack of specifics in the initial appeal, Tribunal staff contacted the Applicant by letter to ask for further details. Specifically, the Tribunal letter asked that the Applicant provide full and detailed grounds of appeal as required by the Act, and provided examples of what constitutes grounds of appeal. The Tribunal letter also noted that if this was not done, the application could be refused without further notice.

[6] The Applicant responded by repeating his initial submissions.

[7] 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. Instead, the application is essentially a request that I re-weigh the evidence and come to a different conclusion.

[8] This I cannot do.

[9] 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*.

[10] 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