



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *E. C. v. Canada Employment Insurance Commission*, 2016 SSTADEI 351

Tribunal File Number: AD-16-574

BETWEEN:

E. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: July 13, 2016

REASONS AND DECISION

[1] Previously, a member of the General Division dismissed the Applicant's appeal from a Commission reconsideration decision on the basis that it had been filed more than 365 days after it had been communicated to the Applicant. 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 repeated the submissions she made to the General Division that the reconsideration decision had not been communicated to her prior to 2016. She again submitted that as soon as she became aware of the decision, she appealed to the General Division.

[5] Although I make no finding on the matter, I note that on the face of the record the General Division member may not have properly explained why he did not accept the Applicant's evidence on the above point.

[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