



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. C. v. Canada Employment Insurance Commission*, 2016 SSTADEI 365

Tribunal File Number: AD-16-799

BETWEEN:

J. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: July 12, 2016

DECISION

[1] Previously, a member of the General Division dismissed the Applicant's appeal from the prior 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] Among other arguments the Applicant appeals on the basis that he required but did not receive an interpreter for his General Division hearing (although he does not seem to have requested one prior to this appeal). He also pleads that he "was not given enough documentation" by the Tribunal. The Applicant appeals only against the finding that a penalty and notice of violation were warranted, and submits that although he made an honest mistake he did not mean to deceive anyone.

[5] Although I make no finding on the matter, I note on the face of the record that although the General Division member found that the amount of the penalty assessed by the Commission should be reduced by several hundred dollars, the member dismissed the Applicant's appeal without doing so.

[6] For at least that 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