



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. B. v. Canada Employment Insurance Commission*, 2016 SSTADEI 375

Tribunal File Number: AD-16-770

BETWEEN:

S. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: July 15, 2016

REASONS AND 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 her initial application the Applicant agreed that she received more benefits than she was entitled to, but submitted that this was not her fault and that she had done nothing wrong. She noted that her Employer had not issued her record of employment in a timely manner, and that this resulted in her owing money.

[5] Because of the lack of any alleged General Division error, I asked Tribunal staff to contact 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 with more details regarding her situation and the alleged actions of her Employer and the Commission. Again she admitted that she had received

benefits to which she was not entitled, but concluded by asking for justice and that her Employer be made to repay these moneys instead of her.

[7] While it is clear that the Applicant is upset with her Employer, she does not appear to be contesting the General Division's sole conclusion that her benefit rate had been calculated correctly by the Commission. No ground of appeal has been stated, nor has she alleged any particular error on the part of the General Division.

[8] 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*.

[9] 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