



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Petrogas Energy Service Ltd v. Canada Employment Insurance Commission and K. N.*,
2016 SSTADEI 455

Tribunal File Number: AD-16-642

BETWEEN:

Petrogas Energy Service Ltd

Applicant

and

Canada Employment Insurance Commission and K. N.

Respondents

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: September 1, 2016

DECISION

[1] Previously, a member of the General Division allowed the Respondent Claimant's appeal from the previous determination of the Respondent Commission. In due course, the Applicant Employer 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 their application, the Applicant alleges that the General Division member made a number of factual errors, and stated those alleged errors in detail. The Applicant also asks that they be granted a new hearing because they were unable to attend the hearing before the General Division.

[5] Although I make no findings on the matter, I am prepared to grant leave in order to examine (among other things) whether or not the procedural fairness rights of the Applicant have been infringed. I expect the Applicant to explain the full details of why they were unable to attend the General Division hearing.

[6] Subject to the above comments, 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