



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. I. v. Canada Employment Insurance Commission*, 2016 SSTADEI 524

Tribunal File Number: AD-16-1106

BETWEEN:

S. I.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Decision on Extension of Time by: Pierre Lafontaine

Date of decision: October 25, 2016

REASONS AND DECISION

DECISION

[1] The Tribunal refuses an extension of time to file leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On June 3, 2016, the General Division of the Tribunal determined that the denial of employment insurance benefits because the Appellant did not return the weekly reports within the allowable period of time in accordance with sections 10 and 50 of the *Employment Insurance Act* and section 26 of the *Employment Insurance Regulations*, was to be upheld.

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on October 18, 2016 after receiving the decision of the General Division on August 18, 2016.

ISSUE

[4] The Tribunal must decide if an extension of time to file a leave to appeal application should be granted and if so, if the appeal has a reasonable chance of success.

THE LAW

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*DESD Act*”), “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the *DESD Act* provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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.

[8] The General Division, after reviewing the above evidence of the Applicant, determined that she did not have good cause for not submitting further reports in August 2014, within the prescribed time limit.

[9] After receiving the decision of the General Division on August 18, 2016, the Applicant filed an incomplete appeal to the Appeal Division on September 1, 2016 and used the wrong form to do so. On September 8, 2016, the Tribunal requested in writing that the Applicant file her appeal with the appropriate form and that she supply in details her grounds for appeal at the latest October 11, 2016. The Applicant replied past the deadline set by the Tribunal. The application for leave to appeal is deemed to have been filed on the date that the Tribunal received all the missing information, October 18, 2016, and is therefore considered 30 days late.

[10] In her application for leave to appeal, and in her reply to the request of the Tribunal, the Applicant is asking this Tribunal to re-evaluate and reweigh the evidence that was already submitted by her to the General Division which is the province of the trier of fact and not of an appeal court.

[11] It is not for the Member deciding whether to grant leave to appeal to reweigh the evidence or explore the merits of the decision of the General Division.

[12] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of her request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success. In view of the above, it would not be in the interest of justice to grant to the Applicant a request for an extension of time to file her application for permission to appeal - *X (Re)*, 2014 FCA 249, *Grewal c. Minister of Employment and Immigration*, [1985] 2 F.C. 263 (F.C.A.).

CONCLUSION

[13] The Tribunal refuses an extension of time to file leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine

Member, Appeal Division