



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. R. v. Canada Employment Insurance Commission*, 2016 SSTADEI 542

Tribunal File Number: AD-16-1235

BETWEEN:

A. R.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

TESC Contracting

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: November 7, 2016

DECISION

[1] Previously, a member of the General Division dismissed the Applicant's appeal. 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* (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 submits that the General Division member did not state or apply the correct test in determining that a false statement was knowingly made.

[5] I note that on the face of the record, the member does appear to have erred in the manner alleged by the Applicant.

[6] If proven, these pleadings could result in a successful appeal. Accordingly, I find that this appeal has a reasonable chance of success and that this application for leave to appeal should be granted.

Mark Borer

Member, Appeal Division