



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *P. H. v. Canada Employment Insurance Commission*, 2016 SSTADEI 552

Tribunal File Number: AD-16-1208

BETWEEN:

**P. H.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Leave to Appeal Decision by: Mark Borer

Date of Decision: November 15, 2016

## **REASONS AND 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] The Applicant submits that the General Division member erred by dismissing her appeal even though the member found as a fact that the Applicant secured a new position prior to leaving her previous employment.

[5] I note that on the face of the record, the member does appear to have made the findings alleged by the Appellant.

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

*Mark Borer*

Member, Appeal Division