



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. M. v. Canada Employment Insurance Commission*, 2016 SSTADEI 567

Tribunal File Number: AD-16-1284

BETWEEN:

B. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: November 24, 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 his appeal. The Applicant argues that although the Commission references a second record of employment, it is not found in the record. The Applicant also does not understand how the alleged overpayment can be so high even though it only covers two weeks of overpaid benefits.

[5] Having reviewed the General Division decision and the record, I am prepared to accept that an evidentiary basis exists for these pleadings.

[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