



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *E. H. v. Canada Employment Insurance Commission*, 2016 SSTADEI 585

Tribunal File Number: AD-16-833

BETWEEN:

E. H.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: December 30, 2016

REASONS AND DECISION

[1] Previously, a member of the General Division determined that the Applicant's request for an extension of time should be refused. In due course, the Applicant filed an application for leave to appeal to the Appeal Division.

[2] I note that the Applicant filed her appeal to the General Division after the statutory appeal period, and that she again did so when filing this application for leave. Although her explanation for filing late to the Appeal Division is not particularly compelling, the delay was not a long one. I also note that the Applicant contacted the Tribunal several times for assistance prior to filing her appeal, indicating a continuing intention to appeal. Taking this into account, as well as the general merit of the appeal as discussed below, in the interests of justice I allow further time within which this application can be made.

[3] 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.

[4] The Act also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[5] Among other arguments, the Applicant submits that the General Division member erred in law by finding that she had not shown that she had an arguable case.

[6] Although I make no findings on the matter, I note that on the face of the record the Applicant does seem to have had an arguable case and therefore the General Division member may indeed have erred in the manner alleged. If shown to be true, this could result in a successful appeal.

[6] I therefore find that these pleadings have a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division