



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *Petrogas Energy Service Ltd v. Canada Employment Insurance Commission*,  
2017 SSTADEI 11

Tribunal File Number: AD-16-642

BETWEEN:

**Petrogas Energy Service Ltd**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

and

**K. N.**

Added Party

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

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DECISION BY: Mark Borer

HEARD ON: December 15, 2016

DATE OF DECISION: January 17, 2017

## **DECISION**

[1] The appeal is allowed. The matter is returned to the General Division for reconsideration.

## **INTRODUCTION**

[2] Previously, a General Division member determined that the Appellant's appeal from the previous determination of the Commission should be dismissed. The Appellant appealed that decision to the Appeal Division and leave to appeal was granted.

[3] A teleconference hearing was held. The Appellant Employer and the Respondent Claimant each attended and made submissions. The Respondent Commission was unable to attend the hearing, but instead communicated their submissions in writing. I therefore proceeded in their absence.

## **ANALYSIS**

[4] Among other arguments, the Employer submits that a work emergency meant that he was unable to attend the General Division hearing. This emergency also made him unable to contact the Tribunal in a timely manner. He asks that his appeal be allowed so that he may attend a new hearing and present evidence under oath regarding the circumstances under which the Claimant's employment ended.

[5] The Commission, in their submissions, agrees that it would be in the interests of justice for a new hearing to be ordered.

[6] The Claimant does not oppose a new hearing. Entirely correctly, however, he notes that there would be no point in a new hearing unless the Employer was present to give evidence and be cross-examined under oath.

[7] It has long been held that the right to be heard is a fundamental natural justice right and it is well established that the denial of this right is a breach of the principles of natural justice that constitutes grounds for a new hearing.

[8] Having considered the above, and having received assurances from the Employer that he will be present to give evidence under oath if a new hearing is ordered, I am prepared to order that in the interests of justice a new General Division hearing be held.

## **CONCLUSION**

[9] The appeal is allowed. The case will be returned to the General Division for reconsideration.

*Mark Borer*

Member, Appeal Division