



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. B. v. Canada Employment Insurance Commission*, 2017 SSTADEI 8

Tribunal File Number: AD-16-1298

BETWEEN:

S. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of decision: January 13, 2017

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] In her submissions, the Applicant argues that the decision under appeal "requires recalculation". She also argues that her case "was not properly looked at and evaluated".

[5] While these pleadings do not identify a proper ground of appeal and do not have a reasonable chance of success, I note that on the face of the record the General Division (and the Commission before it) once again failed to consider and apply *Canada (Attorney General) v. Picard*, 2014 FCA 46, as they were required to do.

[6] Although I make no finding on the matter, if this is so this appeal must succeed at least in part. 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