BETWEEN:

Canada Employment Insurance Commission

Applicant

and

R. G.

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of decision: January 31, 2017

REASONS AND DECISION

[1]   Previously, a member of the General Division determined that the Respondent's appeal should be allowed. In due course, the Commission filed a request for leave to appeal 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 their submissions, the Commission outlines their views as to how the General Division member made legal and factual errors in allowing the Respondent's appeal. Specifically, they allege that the General Division incorrectly applied the established jurisprudence and the *Employment Insurance Act* in determining that the Respondent did not commit an act of misconduct. The Commission has cited case law to support their position, and has also pointed out a number of pieces of evidence which the General Division member allegedly ignored.

[5]   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