



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. B. v. Canada Employment Insurance Commission*, 2017 SSTADEI 55

Tribunal File Number: AD-17-106

BETWEEN:

G. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of decision: February 14, 2017

REASONS AND DECISION

DECISION

[1] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On January 10, 2017, the General Division of the Tribunal determined that:

- The imposition of a disentitlement pursuant to sections 9 and 11 of the *Employment Insurance Act* (Act) and section 30 of the *Employment Insurance Regulations* for failing to prove she was unemployed was to be upheld;

- The imposition of a penalty pursuant to section 38 of the Act for making a misrepresentation by knowingly providing false or misleading information to the Respondent was to be upheld.

[3] The Applicant requested leave to appeal to the Appeal Division on February 2, 2017.

ISSUE

[4] The Tribunal must decide if the appeal has a reasonable chance of success.

THE LAW

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (DESD Act), “an appeal to the Appeal Division may only be brought if leave to appeal is granted” and “the Appeal Division must either grant or refuse leave to appeal”.

[6] Subsection 58(2) of the DESD Act provides that “leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Subsection 58(1) of the DESD Act states that the only grounds of appeal are the following:

- 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.

[8] The Tribunal needs to be satisfied that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] The Applicant submits that she was not heard by the General Division. She argues that the General Division gave merely perfunctory consideration, if at all, of issues she brought to its attention. It gave her the impression that the Member had already decided the issues prior to the hearing.

[10] The Applicant pleads that natural justice implies that a decision will contain a proper analysis that will lead an objective reader to understand clearly how the decider of fact reached his/her conclusion. This includes more than a recitation of the Respondent's file material. She submits that unrepresented claimant's submissions must also be given a fair consideration.

[11] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of her request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out reasons which fall into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

CONCLUSION

[12] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine

Member, Appeal Division