



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *J. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 66

Tribunal File Number: AD-16-1388

BETWEEN:

**J. M.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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

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Leave to Appeal Decision by: Mark Borer

Date of Decision: February 16, 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.

[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] Among other arguments, the Applicant submits that the General Division member erred by dismissing his appeal without hearing his side of the case. He pleads that he did not receive the notice of hearing.

[5] If proven, these pleadings could result in a successful appeal. Accordingly, I find that this appeal has a reasonable chance of success.

[6] Having said the above, I note that according to a Canada Post signature page (cited by the General Division member at paragraph 2 of his decision) the Applicant personally signed for the notice of hearing.

[7] I direct that a copy of this signature page be sent to the Applicant so that he can make his case in full possession of the evidence that was before the General Division member.

[8] As I have found that the Applicant has raised an argument that has a reasonable chance of success, this application for leave to appeal must be granted.

*Mark Borer*

Member, Appeal Division