



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. S. v. Canada Employment Insurance Commission*, 2017 SSTADEI 77

Tribunal File Number: AD-16-915

BETWEEN:

M. S.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: March 1, 2017

DECISION

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

INTRODUCTION

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

[3] This appeal was decided on the record.

ANALYSIS

[4] Among other arguments, the Appellant argues that she did not receive the notice of hearing. The Appellant asks for a new hearing so that she can make her case in full.

[5] The Commission, although they support the General Division member's decision, have no objection to a new hearing being ordered so that the Appellant can be heard.

[6] 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.

[7] As correctly noted by the General Division, Canada Post has indicated that the Appellant signed for the notice of hearing. Because of this, the General Division proceeded in her absence. I can find no fault in the member doing so.

[8] However, given the Commission position, I am prepared in the circumstances of this case to give the Appellant the benefit of the doubt to ensure that her natural justice rights are protected. I therefore allow the appeal so that the Appellant can plead her case in full.

CONCLUSION

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

Mark Borer

Member, Appeal Division