



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *N. G. v. Canada Employment Insurance Commission*, 2017 SSTADEI 103

Tribunal File Number: AD-17-127

BETWEEN:

**N. G.**

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: Pierre Lafontaine

Date of Decision: March 16, 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 19, 2017, the General Division of the Tribunal refused an extension of time for the Applicant to appeal to the General Division of the Social Security Tribunal.

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on February 8, 2017.

### **ISSUE**

[4] The Tribunal must decide whether 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 “[l]eave 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 Applicant argues that on February 26, 2016, she was informed by the General Division that the “reconsideration letter” that was required to accompany her appeal was not in her file. She states that she had mailed the reconsideration letter to the PO Box provided in January, but had not heard back. She had also called her MP’s office seeking support and clarity in the matter. On February 24, 2016, assisted by Arif Virani’s Ottawa office, she submitted documents for the file, including the reconsideration letter, via fax.

[9] She was worried that her documents were not being received by the Tribunal. She again requested the immediate involvement of her Toronto MP’s Office, but it simply did not submit what needed to be submitted when it needed to be submitted, and that is why the request for an extension of time to appeal became necessary.

[10] After reviewing the docket of appeal and the decision of the General Division, and after 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 raises questions regarding the interpretation and application by the General Division of subsection 52(2) of the DESD Act.

## **CONCLUSION**

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

Pierre Lafontaine  
Member, Appeal Division