



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 109

Tribunal File Number: AD-17-75

BETWEEN:

B. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: March 16, 2017

REASONS AND DECISION

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal (Tribunal).

INTRODUCTION

[2] On December 29, 2016, the General Division of the Tribunal determined that the decision not to establish an Employment Insurance benefit period under Section 152.07 of Part VII.1 of the *Employment Insurance Act* (Act) was to be upheld.

[3] The Applicant requested leave to appeal to the Appeal Division on January 18, 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] Regarding the application for leave to appeal, 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 General Division had to decide if the Applicant had established an Employment Insurance benefit period under Section 152.07 of Part VII.1 of the Act. The General Division found that she was not eligible to receive benefits.

[10] The Applicant, in her application for leave, states that she was finally approved for special benefits for self-employed persons (Exhibits AD1-1 to AD1-3). She is requesting that she receive 15 weeks of maternity benefits and the remaining 22 weeks of parental benefits because it was not her fault that it took the authorities two years to determine her eligibility for self-employed persons, even though she had been defending her claim and updating the authorities in a timely fashion.

[11] According to the Applicant's, the issue before the General Division has been resolved in her favour and there is no longer an outstanding issue before the Appeal Division.

[12] The Respondent's decisions dated December 19, 2016, regarding maternity and parental benefits (Exhibits AD1-4, AD-1-5) cannot be addressed by the Appeal Division since it was not the object of a decision by the Respondent at the reconsideration level, in accordance with subsection 112(1) of the Act.

[13] For the above reasons, the appeal has no reasonable chance of success.

CONCLUSION

[14] The Tribunal refuses leave to appeal to the Appeal Division of the Tribunal.

Pierre Lafontaine
Member, Appeal Division