



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *J. E. v. Canada Employment Insurance Commission*, 2017 SSTADEI 118

Tribunal File Number: AD-16-1226

BETWEEN:

**J. E.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

---

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

---

Leave to Appeal Decision by: Mark Borer

Date of Decision: March 25, 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 to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development Act* (DESDA) 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 DESDA also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[4] This case involves whether or not the Applicant's weekly benefit rate was correct.

[5] In her initial application, the Applicant submitted that any errors made in this file were the fault of the Commission and/or her Employer. She also argued that it would be difficult for her to repay the large overpayment assessed against her.

[6] Because these initial submissions did not set out a ground of appeal which had a reasonable chance of success, I asked Tribunal staff to contact the Applicant by letter to seek further details. Specifically, the Tribunal letter asked that the Applicant provide full and detailed grounds of appeal as required by the DESDA, and provided examples of what constitutes grounds of appeal. The Tribunal letter also noted that if this was not done, the application could be refused without further notice.

[7] The Applicant responded by noting that the General Division had recommended that the Commission consider writing off her debt in accordance with s. 56 of the *Employment Insurance Regulations* and provided additional information regarding her current financial circumstances. She also repeated her view that as she “acted according to all the rules” she should not be responsible for the overpayment, and that the General Division member had failed to observe a principle of natural justice by not so finding.

[8] Essentially, the Applicant is not alleging a reviewable error but instead is asking that, in the interests of justice, I relieve her of her debt.

[9] I note that according to s. 112.1 of the *Employment Insurance Act*, neither I nor the General Division has the jurisdiction to do this.

[10] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the DESDA has been made by the General Division and, if so, to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[11] It is not sufficient for an applicant to ask the Appeal Division for a different outcome than that already rendered. In order to have a reasonable chance of success, an applicant must explain in some detail how, in their view, at least one reviewable error set out in the DESDA has been made. Because the Applicant has failed to do so, even after having been prompted by the Tribunal to do so, I find that this application for leave to appeal does not have a reasonable chance of success and must be refused.

*Mark Borer*

Member, Appeal Division