Citation: *J. V. v. Canada Employment Insurance Commission,* 2017 SSTADEI 127

Tribunal File Number: AD-16-1324

BETWEEN:

J. V.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: March 29, 2017

Canada

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 this decision to the Appeal Division.

[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]   In his various submissions, the Applicant outlined his views as to how the General Division member erred in finding that he had been dismissed for committing an act of misconduct. Specifically, he alleges that the General Division did not properly consider the settlement agreement between himself and his Employer. That agreement explicitly stated that the Employer agreed that the Applicant was not fired for cause but was instead dismissed in an "administrative layoff".

[5]   If proven, these pleadings could result in a successful appeal. Accordingly, as there is some basis in the record to support the arguments made by the Applicant, I find that this appeal has a reasonable chance of success and that this application for leave to appeal must be granted.

Mark Borer

Member, Appeal Division