Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *T. W. v. Canada Employment Insurance Commission,* 2017 SSTADEI 141

Tribunal File Number: AD-17-217

BETWEEN:

T. W.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: April 5, 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 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] In his initial application, the Applicant repeated a number of the arguments he made to the General Division member and alleged that the Commission had handled his claim improperly.

[5] I note that on the face of the record that the General Division member did consider the Applicant's arguments even if he did not ultimately accept them.

[6] Because these initial submissions did not set out a ground of appeal with a reasonable chance of success, on their own initiative Tribunal staff contacted 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. Although he alleged that natural justice had not been followed, he did not specify how. He also appeared to admit that the law had been correctly applied to his case, and stated that "'justice' wasn't contravened" while maintaining that the "federally mandated employment act wasn't executed in an intended fashion [*sic*]".

[8] The Applicant is dissatisfied with the General Division member's decision. Although it is not entirely clear, he appears to be asking that I rehear his case and come to a conclusion contrary to the *Employment Insurance Act* and the *Employment Insurance Regulations*.

[9] This I cannot do.

[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. Having failed to do so, even after having been prompted to do so by the Tribunal, I find that the Applicant's application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division