



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. K. v. Canada Employment Insurance Commission*, 2017 SSTADEI 135

Tribunal File Number: AD-16-1189

BETWEEN:

S. K.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: March 31, 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 this decision to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development 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 submissions, the Applicant outlined his views as to how the General Division member erred in finding that he had not shown just cause for voluntarily leaving his employment. Specifically, he alleged that he was constructively dismissed and that this was not properly addressed by the General Division member. He also argued that contrary to the member's findings he took a number of measures to remedy his situation, but that the member did not take these into account in his decision.

[5] Although I make no finding on the matter, if proven these arguments could ground a successful appeal. I note that there is some basis on the face of the record for the Applicant's allegations.

[6] For these reasons, 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