



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *G. C. v. Canada Employment Insurance Commission*, 2017 SSTADEI 166

Tribunal File Number: AD-17-265

BETWEEN:

G. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: April 26, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On March 3, 2017, the Tribunal's General Division decided to uphold the Respondent's decision regarding the 18 weeks during which the Applicant could receive Employment Insurance benefits, pursuant to Schedule I of subsection 12(2) of the *Employment Insurance Act* (Act).

[3] The Applicant filed an application for leave to appeal to the Appeal Division on March 29, 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] According to subsection 58(1) of the DESD Act, 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] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Applicant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the Applicant does not have to prove the case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must, in accordance with subsection 58(1) of the DESD Act, be in a position to determine whether there is a question of law, fact or jurisdiction, the answer to which may lead to the setting aside of the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In support of his application for leave to appeal, the Applicant [*sic*] that an Alberta Worker's Compensation Board officer had told him that the worker's compensation benefits that he had received could count towards hours of insurable employment. Such recognition would directly impact the number of weeks of benefits to which he would be entitled.

[13] The General Division encouraged the Applicant to obtain a determination from the Canada Revenue Agency (CRA) regarding the issue of insurable hours.

[14] The Tribunal would reiterate that it has no authority to determine insurable earnings; this falls under the CRA's purview. Paragraphs 90(1)(c) and (d) of the Act clearly set out that only an officer of the CRA authorized by the Minister can make a ruling on the issue of insurable earnings or on hours accumulated in insurable employment.

[15] Based on the evidence before the General Division, the Applicant had accumulated 1,003 hours of insurable employment during his qualifying period. Given that the regional unemployment rate was 5.6% when the benefit period was established, Employment Insurance benefits were payable for 18 weeks under Schedule I of subsection 12(2) of the Act.

[16] For the above-mentioned reasons, the Tribunal finds that the Applicant's appeal has no reasonable chance of success.

CONCLUSION

[17] Leave to appeal is refused.

Pierre Lafontaine
Member, Appeal Division