Citation: *J. D. v. Canada Employment Insurance Commission,* 2017 SSTADEI 167

Tribunal File Number: AD-17-1

BETWEEN:

J. D.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

LCL Spas

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: April 26, 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* (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 submissions, the Applicant outlines his views as to how the General Division member erred in law and in fact. Specifically, he alleges that the member did not properly apply the law surrounding the treatment of leaves of absence and thereby erroneously assessed the fact presented. The Applicant explains in detail the basis for this argument in his application.

[5]   Although I make no finding on the matter, I am persuaded that there is some basis in fact to support the Applicant's arguments and that, if true, they could ground a successful appeal.

[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