



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 163

Tribunal File Number: AD-16-1077

BETWEEN:

S. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: April 21, 2017

REASONS AND DECISION

[1] Previously, a member of the General Division determined that the Applicant's request for an extension of time should be refused. In due course, the Applicant filed an application for leave to appeal 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 application, the Applicant did not set out a ground of appeal with a reasonable chance of success.

[5] Notwithstanding this, and although I make no finding on the matter, I note that the General Division member appears to have completely misapplied the test to determine whether or not he should exercise his discretion to grant an extension of time.

[6] If shown to be true, this could result in a successful appeal. I therefore find that this application for leave to appeal has a reasonable chance of success and must be granted.

Mark Borer

Member, Appeal Division