



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. K. v. Canada Employment Insurance Commission*, 2017 SSTADEI 172

Tribunal File Number: AD-16-1132

BETWEEN:

P. K.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: April 28, 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 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 alleged that the General Division member did not provide him with a fair hearing. He added that he was "treated poorly" and that he "never got to fully explain [his] case". No other grounds of appeal were suggested.

[5] To assist me in determining if this submission had a reasonable chance of success, I listened to the recording of the General Division hearing. Nothing on the recording suggested to me that the Applicant's natural justice rights had been violated.

[6] Because of this, and to ensure that the Applicant had the opportunity to make his case in full, I asked Tribunal staff to contact 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 did not respond.

[8] Although the Applicant has alleged a lack of fairness on the part of the General Division member, it appears to me that the Applicant is actually asking that I rehear his case and come to a decision more favourable to him.

[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 rehear the case *de novo*.

[11] In order to have a reasonable chance of success, the 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 this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division