



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *R. A. v. Canada Employment Insurance Commission*, 2017 SSTADEI 204

Tribunal File Number: AD-17-317

BETWEEN:

**R. A.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: May 17, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On March 20, 2017, the Tribunal's General Division determined that the Applicant had failed to meet the onus placed upon her to demonstrate good cause for the entire period of the delay in making the initial claim for benefits pursuant to subsection 10(4) of the *Employment Insurance Act* (Act).

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on April 12, 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] Subsection 58(1) of the DESD Act states that 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] In her leave to appeal application, the Applicant submitted that she did not agree with the General Division decision and that she needed to explain her situation. She states that she had worked for different companies over six years.

[9] On April 13, 2017, a letter was sent to the Applicant requesting that she file her detailed grounds of appeal no later than May 15, 2017. The Applicant replied to the Tribunal on May 10, 2017. In her reply, the Applicant simply rewrote the General Division's conclusions that she is contesting.

[10] On July 19, 2016, the Applicant requested an antedate to her last day of work in 2006. The evidence before the General Division showed that the Applicant had not applied sooner because she had not known about Employment Insurance. She stated that she had not contacted the government during her period of unemployment to inquire about programs or services for unemployed people.

[11] The General Division found that the Applicant had failed to demonstrate that she had acted, as a reasonable person in the same situation would have done, to satisfy herself of her rights and obligations under the Act, and that she failed to demonstrate that there were exceptional circumstances that affected her ability to inquire about her entitlement sooner.

[12] Unfortunately for the Applicant, an appeal to the Appeal Division is not a *de novo* hearing where she can resubmit her evidence and hope for a different outcome.

[13] A prospective claimant in the Applicant's position is expected to take reasonably prompt steps to understand her rights and obligations under the Act. As part of this requirement, the Applicant was expected to make reasonable enquiries to verify her eligibility. An obvious place to enquire would have been with the Respondent – *Canada (Attorney General) v. Innes*; 20110 FCA 341, *Canada (Attorney General) v. Thrinh*, 2010 FCA 335.

[14] After reviewing the appeal docket and the General Division's decision, as well as after considering the Applicant's arguments in support of her request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success. The Applicant has not set out a reason that falls into the above-enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

## **CONCLUSION**

[15] The Tribunal refuses leave to appeal to the Tribunal's Appeal Division.

Pierre Lafontaine  
Member, Appeal Division