



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. G. v. Canada Employment Insurance Commission*, 2017 SSTADEI 198

Tribunal File Number: AD-17-269

BETWEEN:

L. G.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: May 12, 2017

REASONS AND DECISION

DECISION

[1] On consent, the appeal is allowed. The matter will be returned to the General Division for reconsideration.

INTRODUCTION

[2] Previously, a member of the General Division determined that the Appellant's appeal should be dismissed. In due course, the Appellant filed an application for leave to appeal with the Appeal Division and leave to appeal was granted.

[3] This appeal was decided on the record.

THE LAW

[4] According to subsection 58(1) of the *Department of Employment and Social Development Act*, 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.

ANALYSIS

[5] This appeal involves the allocation of moneys received from a settlement agreement.

[6] The Appellant argues, among other things, that the General Division member erred in his determination of the amount of moneys that needed to be allocated. Specifically, she argues that compensation for legal fees should not have been allocated.

[7] In granting leave to appeal, I noted that I had some difficulty understanding how the member had arrived at his conclusions, given that I was unable to reconcile the numbers found at paragraph 9 of his decision with the final calculations found at paragraph 22 of his decision.

[8] The Commission, having considered the file and the decision, concedes that the member made an error of fact by dismissing the appeal without clearly addressing whether or not certain legal fees needed to be allocated. They agree that a new hearing before the General Division must be ordered so that the issue can be addressed, and additionally ask that the Commission be permitted to make further submissions to the General Division regarding the legal fees.

[9] Having considered the file, I find myself in agreement with the parties that the General Division member erred by not addressing the legal fees issue more clearly.

[10] I agree that a new hearing is required so that the Appellant and the Commission can each make their respective cases in full.

CONCLUSION

[11] For the above reasons and on consent, the appeal is allowed. The matter will be returned to the General Division for reconsideration.

Mark Borer

Member, Appeal Division