



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *L. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 214

Tribunal File Number: AD-17-309

BETWEEN:

L. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: May 29, 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 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 alleged that the General Division member stated and applied the wrong test to determine whether or not he had shown just cause for leaving his employment.

[5] I note that at some places in his decision, the General Division member does indeed wrongly state the test as "all alternatives" instead of "all reasonable alternatives," which is used correctly elsewhere. This may be a simple typographical error, or it may constitute an error of law which I am obligated to intervene to correct.

[6] Because of this, I find that this application has a reasonable chance of success and leave to appeal must be granted.

Mark Borer

Member, Appeal Division