



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. H. v. Canada Employment Insurance Commission*, 2017 SSTADEI 215

Tribunal File Number: AD-17-283

BETWEEN:

M. H.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: May 30, 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 outlines his views as to how the General Division member erred. Specifically, he alleges that the member failed to admit certain pieces of evidence and thereby violated his natural justice rights.

[5] Although I make no finding on the matter, I am persuaded that on the face of the record there is a potential evidentiary basis to support the Applicant's natural justice arguments and that, if true, they could ground a successful appeal.

[6] This leads me to conclude that this application has a reasonable chance of success.

[7] I would remind the Applicant, however, that an appeal before the Appeal Division is not a chance for a “do over.” In order to succeed, an appellant must demonstrate that the General Division member made a reviewable error that had a meaningful effect on the outcome. I would encourage the Applicant to make any further submissions with this in mind.

[8] Leave to appeal is granted.

Mark Borer

Member, Appeal Division