



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. A. v. Canada Employment Insurance Commission*, 2017 SSTADEI 226

Tribunal File Number: AD-17-363

BETWEEN:

C. A.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: June 7, 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] The Applicant's application to the Appeal Division was filed late. The Applicant explained that he had been ill, had been under stress and had been involved in "fasting and church activities along with its ceremonies." He also stated that filing this appeal was "low priority." Although this explanation is not particularly compelling and although he clearly did not prioritize the filing of this appeal as he should have, for the reasons below I do not see any prejudice resulting from the extension being granted. I note that the application was only slightly late, and am prepared to conclude that it is in the interests of justice to allow further time within which this application can be made.

[3] 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.

[4] The DESDA also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success."

[5] This case involves the voluntary leaving of employment.

[6] In his initial application, the Applicant said that he wanted "to be heard by a higher level of Justice [*sic*]."

[7] Because the application did not state a ground of appeal with a reasonable chance of success, 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.

[8] The Applicant responded by repeating submissions he had previously made to the General Division member. He also argued that “once I reach the allowable limit... while I have been looking for another employment and until I find it I desire a little assistance from Social Security [*sic*].”

[9] I note that the Applicant told the General Division member that he had left his employment because if he worked more than 50 teaching days in a year he would jeopardize his pension. This appears to be the “allowable limit” referred to above.

[10] In truth, the Applicant is asking that I ignore the General Division’s findings, rehear his case and grant him benefits.

[11] This I cannot do.

[12] 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*.

[13] In order to have a reasonable chance of success, an applicant must set out in some detail how at least one reviewable error set out in the DESDA has been made. Because the Applicant has failed to do this, even after having been prompted by the Tribunal, I find that this appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division