



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *G. L. v. Canada Employment Insurance Commission*, 2017 SSTADEI 221

Tribunal File Number: AD-17-303

BETWEEN:

**G. L.**

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: June 2, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On March 13, 2017, the Tribunal's General Division refused the Applicant's request for an extension of time because it found that it had to apply subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), which clearly states that in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the Appellant.

[3] The Applicant filed an application for leave to appeal to the Appeal Division on April 10, 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 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] According to subsection 58(1) of DESD Act, 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] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the applicant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the applicant does not have to prove the case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the DESD Act, whether there is a question of law, fact or jurisdiction, the answer to which might justify setting aside the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In his application for leave to appeal, the Applicant maintains that the General Division did not take into account the evidence brought before it when making its decision. He essentially claims that the General Division erred in its interpretation and application of subsection 52(2) of the DESD Act.

[13] Upon review of the appeal docket, the General Division's decision and the arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant raises a question the answer to which may result in the setting aside of the decision under review.

### **CONCLUSION**

[14] The Tribunal grants leave to appeal.

Pierre Lafontaine  
Member, Appeal Division