



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. L. v. Canada Employment Insurance Commission*, 2017 SSTADEI 235

Tribunal File Number: AD-17-210

BETWEEN:

C. L.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: June 14, 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] 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 her initial application, the Applicant stated that her situation had been created by bad advice she received from the Commission but she did not allege any particular error in the member's decision.

[5] Because the application did not state a ground of appeal with a reasonable chance of success, Tribunal staff contacted 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.

[6] The Applicant responded by alleging that the General Division member failed to observe a principle of natural justice because he was “simply using EI regulations to judge... it becomes not fair to me [*sic*].”

[7] As this did not set out a ground of appeal with a reasonable chance of success, I asked Tribunal staff to once again send a letter to the Applicant asking her to clarify the nature of her appeal.

[8] She replied by again stating her view that the General Division member did not give her case proper consideration, and that “he didn’t respect my case but simply applied the relevant law.”

[9] I note that although it is true that the member did not ultimately accept the Applicant’s position, he did consider it (as evidenced by his decision).

[10] In truth, the Applicant is asking that I ignore the law and issue a decision more favourable to her than that already rendered by the General Division member.

[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 Act 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 twice by the Tribunal, I find that this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division