



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *G. C. v. Canada Employment Insurance Commission*, 2017 SSTADEI 251

Tribunal File Number: AD-17-436

BETWEEN:

**G. C.**

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 28, 2017

## **REASONS AND DECISION**

### **DECISION**

[1] The Social Security Tribunal of Canada (Tribunal) refuses leave to appeal.

### **INTRODUCTION**

[2] On May 11, 2017, the Tribunal's General Division rejected the Applicant's constitutional challenge because it did not comply with the Tribunal's requirements.

[3] The Applicant filed an application for leave to appeal with the Appeal Division on June 2, 2017.

[4] The General Division has not yet rendered a final decision on the issue, namely, whether the Respondent used its power judiciously when it refused to extend the provided 30-day period for submitting a reconsideration request pursuant to section 112 of the *Employment Insurance Act* and section 1 of the *Reconsideration Request Regulations*.

### **ISSUE**

[5] The Tribunal must decide whether the appeal has a reasonable chance of success.

### **THE LAW**

[6] As stipulated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (DESD Act), "An appeal to the Appeal Division may be brought only if leave to appeal is granted," and "The Appeal Division must either grant or refuse leave to appeal."

[7] The Appeal Division must either grant or refuse leave to appeal. 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**

[8] 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.

[9] The decision under appeal is an interlocutory decision. The courts have repeatedly stated (such as in *Szczeka v. Canada (Minister of Employment and Immigration)*, 1993 CanLII 9425 (FCA)) that, except in exceptional circumstances, an interlocutory decision must not be subject to an immediate appeal.

[10] In other words, there can be no appeal of an interlocutory decision when there are other remedies available as a result of the General Division’s final decision.

[11] The reason is as follows: if interlocutory appeals were permitted to be filed on a regular basis, it would increase delays and expenses, and this procedure could interfere with the sound administration of justice and ultimately bring the administration of justice into disrepute.

[12] The Applicant has not identified any exceptional circumstances in his application for leave to appeal that would justify an immediate appeal.

[13] For the abovementioned reasons, the Applicant's appeal of the interlocutory decision rendered by the General Division on May 11, 2017, has no reasonable chance of success.

### **CONCLUSION**

[14] The Tribunal refuses leave to appeal.

Pierre Lafontaine

Member, Appeal Division