



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. B. v. Canada Employment Insurance Commission*, 2017 SSTADEI 267

Tribunal File Number: AD-15-1250

BETWEEN:

A. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

HEARD ON: June 6, 2017

DATE OF DECISION: July 13, 2017

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] Previously, a General Division member dismissed the Appellant's appeal.

[3] In due course, the Appellant filed an application for leave to appeal with the Appeal Division and leave to appeal was granted.

[4] A teleconference hearing was held. The Appellant and the Commission each attended and made submissions.

THE LAW

[5] According to subsection 58(1) of the *Department of Employment and Social Development Act* (the DESDA), 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.

ANALYSIS

[6] Although the Appellant, a student-at-law, raised a number of issues in her written and oral submissions, ultimately I only have jurisdiction over whether or not the Commission properly allocated certain earnings.

[7] In the hearing before me, the Appellant readily agreed that she received the moneys in question, that these moneys constituted earnings, and that these earnings were allocated

correctly by the Commission. She argues, however, that she was not treated fairly by the government of Saskatchewan, the Commission at various points during the application process, or by the General Division member. She asks that I allow her appeal and also that I write off her debt.

[8] The Commission notes that the only issue before the General Division was the allocation of earnings. As the Appellant does not take issue with the allocation of earnings, they submit that this appeal must fail. They further note that according to the *Employment Insurance Act* (Act) the Tribunal has no jurisdiction over the writing off of any debt.

[9] As I attempted to explain to the Appellant, the Tribunal is an administrative tribunal and not a court. I do not have the power to hold the Government of Saskatchewan “under penalty for their negligence and/or willful misrepresentation and non-compliance,” as the Appellant has requested (at AD8-7), nor do I have the power to somehow punish the Commission for any alleged mishandling of her file.

[10] Instead, I am bound by the law. And the law, at s. 112.1 of the Act, says that any Commission decision made regarding the writing off of any debt is not subject to review by the Tribunal. I also note that since no debt write off decision is present in the file, there would be nothing for me to review even if I did have the jurisdiction to do so.

[11] As noted above, the sole issue before me is the allocation of certain earnings and on that issue the Appellant admits that the Commission was correct in initial decision.

[12] Therefore, this appeal must fail.

[13] Before concluding, however, it is necessary for me to address a final argument raised by the Appellant. In her written submissions, and again before me, the Appellant made allegations of bias against the General Division member. She offered no proof of any kind for this allegation, and having reviewed the record, I find absolutely no evidence upon which a charge of bias could be based. Accordingly, I reject this allegation as completely unfounded.

CONCLUSION

[14] For the above reasons, the appeal is dismissed.

Mark Borer

Member, Appeal Division