



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 276

Tribunal File Number: AD-17-437

BETWEEN:

S. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: July 18, 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 May 10, 2017, the General Division of the Tribunal determined that the Applicant was to be denied an extension to the 30-day appeal delay for lodging an appeal with the Board of Referees pursuant to section 114 of the *Employment Insurance Act* (Act).

[3] The Applicant is presumed to have requested leave to appeal to the Appeal Division on June 8, 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 *Department of Employment and Social Development Act* (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] Subsection 58(1) of the DESD Act states that 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] Before leave can be granted, the Tribunal needs to be satisfied that the reasons for appeal fall within any of the above-mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

[9] The Applicant essentially puts forward that the General Division erred when it concluded that the Respondent acted judicially in refusing his appeal to the Board of Referees pursuant to section 114 of the Act. He argues that he filed his appeal within the legal timeframe and that the Respondent did not consider all of the relevant factors.

[10] After considering the appeal docket, the General Division decision and the Applicant's submissions, the Tribunal finds that the appeal has a reasonable chance of success.

CONCLUSION

[11] The Tribunal grants leave to appeal to the Tribunal's Appeal Division.

Pierre Lafontaine Member,
Appeal Division