



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. L. v. Canada Employment Insurance Commission*, 2017 SSTADEI 313

Tribunal File Number: AD-17-479

BETWEEN:

M. L.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: August 30, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On May 27, 2017, the General Division of the Tribunal determined that the Appellant was disentitled from Employment Insurance because she was not unemployed pursuant to sections 9 and 10 of the *Employment Insurance Act* (Act) and section 30 of the *Employment Insurance Regulations* (Regulations).

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on June 28, 2017, after receiving the General Division decision on May 29, 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 to appeal 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] In support of her application for leave to appeal, the Applicant submits that the General Division based its decision on erroneous findings of fact that it made in a perverse or capricious manner or without regard for the material before it. She gives examples of factual errors committed by the General Division that would support her position that she has grounds of appeal under paragraph 58(1)(c) of the DESD Act.

[10] After reviewing the appeal docket and the General Division decision, and after considering the Applicant's arguments in support of her request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out reasons that fall within the above-enumerated grounds of appeal and that could possibly lead to the reversal of the contested decision.

CONCLUSION

[11] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine
Member, Appeal Division