



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. M. v. Canada Employment Insurance Commission*, 2017 SSTADEI 306

Tribunal File Number: AD-17-367

BETWEEN:

B. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: August 25, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On April 6, 2017, the Tribunal's General Division determined that:

- The Respondent had exercised its discretion in a judicial manner in denying the Applicant's request to extend the 30-day period to make a Request for Reconsideration of a decision under section 112 of the *Employment Insurance Act* (Act) and section 1 of the *Reconsideration Request Regulations* (Reconsideration Regulations).

[3] The Applicant requested leave to appeal to the Appeal Division on May 2, 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] The Respondent considered that the Applicant had received the Respondent's decision dated January 8, 2015, and that had she delayed until September 23, 2016, to make a Request for Reconsideration of a decision under section 112 of the Act and section 1 of the Reconsideration Regulations.

[10] The Applicant, in her application for leave to appeal, states that she is not an Appeal Division member. She does not need leave to appeal. She asserts that this is a painful, disorganized, abusive, bureaucratic process with no commitment of employees to understand what this puts citizens of Canada through. She is jumping through the hoops out of necessity. She is perturbed and disappointed that this is how she is treated for reporting a breach in the name of security.

[11] The Tribunal sent a letter to the Applicant dated May 5, 2017, requesting that she explain in detail her grounds of appeal. The Applicant replied to the Tribunal on May 14, 2017.

[12] The Applicant, in her reply to the Tribunal, states the following:

“This is my last attempt at jumping through your illogical hoops and disorganization to satisfy a system that is broken. A system that has the potential to ruin people’s lives. Please attach the following to my appeal. I will not be resending my evidence.

I attended to my disabled son, who’s wife left him at the beginning of January 2015. That is why the delay. I had to put the charade of being passed around from government office to government office on hold. Some things in life are priorities I make no apologies for the delay. When I had more energy to regroup and look back and actually see what happened I attempted to gather the information and proceed. You can verify that with Canada Revenue Agency. A person gets tired and their head hurts after banging it against a Wall. Your computer systems were breached and all of your employees in government knew , and nothing was done . You were covering up for this colossal breach. I guess there is a certain comfort level to thinking you were doing the right thing. It was on the news. I reported this to Brain Wood Communications, Department of Health of the Saskatchewan government. Over time, you didn’t know if you were talking to a thug or an employee within government because surely you do not know everyone. It was happening a lot longer than anyone was aware. This is in your defence.

I am a citizen of this country and always have been. I paid my taxes and paid in to employment insurance all of my life. I have lived and worked in the same place for over 40 years. I am a human being. I have nothing to hide, do you? Computers are only, as good as ,the people who operate them. All computers are connected. As an employee you cannot allow the computer to give you all the information. Ethically, I would think you are required to use your thinking skills, communication skills and organizational skills and be as accommodating as you can, with your clients or those who ask for help even though your elected officials have broken the law. Break the law, but do it for the right reasons. The American intelligence agencies and Canadian security agencies along with the Stephen Harper government and the Saskatchewan government unleashed something they cannot undo because of their actions, and without a brain in their head, and without respect for human beings and human rights . We are all paying a cost by the muzzling. I will not be muzzled. There is no recourse, but to go through this now. One cannot hide, or keep silent or undo. The damage is already done. It’s not about you, in your office right now. It’s about everyone. Pull it together or we all lose.”

[13] The Applicant did not submit a Request for Reconsideration of an Employment Insurance Decision until September 23, 2016, which is more than 18 months after the decision of January 8, 2015. She alleged before the General Division that the delay in her submitting her request for reconsideration was as a result of a breach of her personal information that occurred through her place of work, her bank and the government.

[14] The General Division, after reviewing the Applicant's evidence, determined that the Respondent had properly exercised its discretion under section 112 of the Act and the section 1 of the Reconsideration Regulations when it had determined:

- that the Applicant did not have a reasonable explanation for the delay in making the request for reconsideration;
- that she had not demonstrated a continuing intention to request the reconsideration,
- that she did not have a reasonable chance of success; and
- that a prejudice would be caused to the Respondent should the extension be granted.

[15] The General Division determined that the Applicant had not shown that the Respondent had failed to act in good faith, or that it had ignored relevant factors or had considered irrelevant factors in reaching its decision.

[16] In her application for leave to appeal, the Applicant has not identified any errors of jurisdiction or any failure by the General Division to observe a principle of natural justice. She has neither identified errors in law nor has she identified any erroneous findings of fact that the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to the decision that the Respondent had acted in a judicial manner when it had refused to extend the 30-day period.

[17] For the above-mentioned reasons and after carefully reviewing the docket of appeal, the General Division's decision and considering the Applicant's arguments in support of her

request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[18] The Tribunal refuses leave to appeal to the Appeal Division.

Pierre Lafontaine
Member, Appeal Division