



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *N. G. v. Canada Employment Insurance Commission*, 2017 SSTADEI 366

Tribunal File Number: AD-17-11

BETWEEN:

**N. G.**

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: October 23, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On December 7, 2016, the General Division of the Tribunal decided that an extension of time for the Applicant to appeal to the General Division of the Tribunal was to be refused pursuant to subsection 52(2) of the *Department of Employment and Social Development Act* (DESD Act), the appeal having been completed more than one year after the reconsideration decision was communicated to the Applicant.

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on January 3, 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 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] When considering an application for leave to appeal, 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 evidence before the General Division shows that more than one year had passed from when the reconsideration decision, dated December 24, 2014, was communicated verbally and in writing to the Applicant by the Respondent and when a complete appeal was filed at the General Division. Numerous attempts were made to obtain missing information from the Applicant after he had filed an incomplete appeal at the General Division. The Applicant finally filed a complete appeal only on October 31, 2016, which was over 365 days from when the reconsideration decision was communicated to him.

[10] The appeal file shows that the Applicant was requested on several occasions to provide in detail his grounds of appeal. He submitted that it was unclear what was missing in the file and essentially reiterated the reasons why he had left his employment.

[11] The Applicant had filed his incomplete appeal to the General Division on January 23, 2015. The General Division sent letters to the Applicant on January 29, 2015, February 1, 2016, and July 26, 2016, requesting that the Applicant file a copy of the reconsideration decision rendered by the Respondent. The Applicant was also verbally notified on August 9, 2016, of what was missing to complete his appeal. The Applicant finally filed the missing information on October 31, 2016—20 months after initially being requested to do so.

[12] Subsection 52(2) of the DESD Act clearly states that in no case may an appeal be brought more than one year after the reconsideration decision was communicated to the applicant.

[13] Unfortunately for the Applicant, he has neither identified any errors of jurisdiction or law nor 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 its decision to apply subsection 52(2) of the DESD Act.

[14] For the above-mentioned reasons, and after reviewing the appeal docket and the General Division decision, and after considering the Applicant's arguments in support of his request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

## **CONCLUSION**

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

Pierre Lafontaine  
Member, Appeal Division