



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *S. Z. v. Canada Employment Insurance Commission*, 2017 SSTADEI 422

Tribunal File Number: AD-17-876

BETWEEN:

**S. Z.**

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: December 4, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On September 28, 2017, the General Division of the Tribunal found that the Applicant's initial claim for benefits could not be considered to have been made on an earlier day since the Applicant had not shown good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made pursuant to subsection 10(4) of the *Employment Insurance Act* (Act).

[3] The Applicant requested leave to appeal to the Appeal Division on November 14, 2017, after receiving the General Division decision on October 12, 2017.

### **ISSUES**

[4] The Tribunal must decide whether it will grant the late application for leave to appeal and 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] As regards the late application for leave to appeal, the Applicant states that he could not fax the leave to appeal application and the multi-page General Division decision because it would have caused him financial hardship. He therefore mailed his application dated November 12, 2017. The Tribunal finds that, in the present circumstances and considering that the Applicant was only one day late, it is in the interest of justice to grant the Applicant's request for an extension of time to file his application for leave to appeal as it will not cause prejudice to the Respondent—*X (Re)*, 2014 FCA 249; *Grewal v. Minister of Employment and Immigration*, [1985] 2 F.C. 263 (F.C.A.).

[9] As regards the application for leave to appeal, 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.

[10] In his application for leave to appeal, the Applicant essentially puts forward that the General Division did not at all consider the facts of his case. He submits that Service Canada was providing misleading information on its website and that this fact alone represents good

cause for delay. He pleads that Service Canada eventually corrected their mistake, which he believes supports his claim that he had good cause for his delay.

[11] After reviewing the appeal docket and the decision of the General Division, and after considering the arguments of the Applicant in support of his 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 into the above-enumerated grounds of appeal and that could possibly lead to the reversal of the disputed decision.

## **CONCLUSION**

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

Pierre Lafontaine  
Member, Appeal Division