



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. M. v. Canada Employment Insurance Commission*, 2018 SST 368

Tribunal File Number: AD-18-22

BETWEEN:

G. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: April 3, 2018

DECISION AND REASONS

DECISION

[1] The Tribunal grants leave to appeal to the Appeal Division.

INTRODUCTION

[2] On November 20, 2017, the General Division of the Tribunal determined that subparagraph 55(6)(b)(iv) of the *Employment Insurance Regulations* (Regulations) did not exclude the Applicant from a disentitlement to Employment insurance benefits while he was outside of Canada.

[3] The Applicant requested leave to appeal to the Appeal Division on January 5, 2018, after receiving the General Division decision on December 11, 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] In support of his application for leave to appeal, the Applicant disputes the General Division's interpretation of subparagraph 55(6)(b)(iv) of the Regulations. He argues that the General Division erred in law when it concluded that he did not qualify for benefits under Article VI of the *Agreement between Canada and the United States respecting Unemployment Insurance*, signed on March 6 and 12, 1942.

[10] The Applicant argues that he meets all the requirements of the agreement. He argues that he was residing temporarily in a state of the United States and that an employment situation existed outside of Canada.

[11] For the above-mentioned reasons, 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 a reasonable chance of success. The Applicant has set out reasons which 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.

Pierre Lafontaine
Member, Appeal Division