



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *E. C. v. Canada Employment Insurance Commission*, 2018 SST 532

Tribunal File Number: AD-18-234

BETWEEN:

E. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Janet Lew

Date of Decision: May 14, 2018

DECISION AND REASONS

DECISION

[1] The application for leave to appeal is refused.

OVERVIEW

[2] The Applicant, E. C., acknowledges that there is a debt owing, arising from a family supplement paid to her under the *Employment Insurance Act* and the Regulations thereto. However, she argues that the Canada Revenue Agency (CRA) alone should be held responsible for this overpayment because of “false information” it provided to her and to the Respondent, the Canada Employment Insurance Commission (Commission), upon which it was initially determined that she was eligible for the family supplement. I must decide whether the appeal has a reasonable chance of success based on this argument.

ISSUE

[3] Has the Applicant identified any grounds of appeal that have a reasonable chance of success?

ANALYSIS

[4] Subsection 58(1) of the *Department of Employment and Social Development Act* (DESDA) sets out the grounds of appeal as being limited to 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.

[5] Before granting leave to appeal, I need to be satisfied that the reasons for appeal fall within the grounds of appeal enumerated under ss. 58(1) of the DESDA and that the appeal has a reasonable chance of success. The Federal Court endorsed this approach in *Tracey*.¹

[6] The CRA notified the Commission that the Applicant's net family income between May 4, 2014 and January 31, 2015 was equal to or lower than \$25,921. It also notified the Commission that the Applicant was receiving the Child Tax Benefit. The Commission therefore determined that the Applicant met the prescribed low-income family eligibility criteria and, accordingly, the rate of the Applicant's weekly benefits was increased by the amount of a family supplement.

[7] The CRA subsequently provided the Commission with updated information showing that the Applicant's net family income exceeded the low-income family eligibility threshold. Based on this updated information, the Commission determined that the Applicant had not been entitled to the family supplement between May 4, 2014 and January 31, 2015, resulting in an overpayment.

[8] The Applicant concedes that there was an overpayment, but she argues that, although she received an overpayment, she should not be held liable for it, particularly since it would create financial hardship for her and her family. She argues that the CRA provided her with inaccurate information regarding how she was to describe her marital status and that this affected the determination of her net family income. She argues that the CRA alone should be held liable for the overpayment, because any errors emanated from the CRA's inaccurate advice.

[9] The Applicant claims that because the CRA provided her with inaccurate information, principles of natural justice were breached. However unfair this may seem, this does not amount to an arguable case for the purposes of ss. 58(1)(a) of the DESDA because any breach must relate to actions (or omissions) of the decision-maker, which in this case is the General Division. The Applicant has not identified any errors that the General Division made in arriving at its decision. Furthermore, neither the General Division nor the Appeal Division of the Social Security Tribunal has the jurisdiction to grant the relief sought by the Applicant. Given these considerations, the application requesting leave to appeal is refused.

¹ *Tracey v. Canada (Attorney General)*, 2015 FC 1300.

[10] Finally, I have reviewed the underlying record and I do not see any indication that the General Division either overlooked or misconstrued important evidence.

CONCLUSION

[11] The application for leave to appeal is refused.

Janet Lew
Member, Appeal Division

REPRESENTATIVE:	E. C., self-represented
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