



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *I. J. v Canada Employment Insurance Commission*, 2019 SST 362

Tribunal File Number: AD-19-184

BETWEEN:

I. J.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: April 18, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] I. J. (Claimant) applied for regular Employment Insurance benefits in February 2017. The Canada Employment Insurance Commission decided that he was disqualified from receiving benefits because he voluntarily left his employment without just cause. The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed his appeal because it was made more than one year after the Commission's reconsideration decision was communicated to him. The Claimant's request for leave to appeal this decision to the Tribunal's Appeal Division is refused because the General Division made no error under the *Department of Employment and Social Development Act* (DESD Act).

ISSUE

[3] Has the Claimant presented a ground of appeal under the DESD Act upon which the appeal has a reasonable chance of success?

ANALYSIS

[4] The DESD Act governs the Tribunal's operation. It sets out only three grounds of appeal that the Appeal Division can consider. They are the General Division failed to observe a principle of natural justice or made a jurisdictional error, made an error in law, or based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it.¹ In addition, leave to appeal is to be refused if the appeal has no reasonable chance of success.² Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal that falls under the DESD Act and on which the appeal has a reasonable chance of success.

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

[5] The DESD Act also states that an appeal to the Tribunal must be made within one year of when the reconsideration decision was communicated to the Claimant. This appeal was made beyond that time limit. The reconsideration decision is dated June 2017; the Claimant filed documents to appeal this decision to the Tribunal in October 2018. The General Division dismissed the Claimant's appeal because it was filed late.³ The Claimant does not argue that this was based on an erroneous finding of fact; he explains why his documents were late. I have reviewed the General Division decision and the written record. The General Division did not make any factual error, or misconstrue any important information.

[6] There is also no indication that the General Division made an error in law or failed to observe a principle of natural justice.

CONCLUSION

[7] Leave to appeal is refused because the Claimant has not presented any grounds of appeal under the DESD Act.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVES:	I. J., Self-represented
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³ General Division decision at para. 5