



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. S. v Canada Employment Insurance Commission*, 2019 SST 1340

Tribunal File Number: AD-19-586

BETWEEN:

D. S.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: November 8, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] The Claimant has not worked since 2012 because he is ill. In March 2019, he applied for family caregiver benefits under the *Employment Insurance Act*. The Canada Employment Insurance Commission refused the application because the Claimant did not have enough hours of insurable earnings to qualify for the benefit.

[3] The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal for the same reason. Leave to appeal to the Tribunal's Appeal Division is refused because there is no reasonable chance of success on appeal based on the General Division having made an error under the *Department of Employment and Social Development Act* (DESD Act).

ISSUE

[4] Does the appeal have a reasonable chance of success because the General Division made an error under the DESD Act?

ANALYSIS

[5] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim, but a determination of whether the General Division made an error under the DESD Act. The Act also states that there are only three kinds of errors that can be considered. They are that the General Division failed to observe a principle of natural justice, 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

¹ DESD Act s. 58(1)

appeal must be refused if the appeal has no reasonable chance of success.² Therefore, to be granted leave to appeal a 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.

[6] In the Application to the Appeal Division, the Claimant wrote that he had additional documents to present to the Tribunal, and asked for help with the appeal. The promise to present additional evidence is not a ground of appeal under the DESD Act.

[7] Also, the Tribunal is an independent decision maker, and as such cannot assist any party who appears before it. Leave to appeal cannot be granted because the Claimant would like help with his appeal.

[8] The Tribunal wrote to the Claimant and explained what grounds of appeal can be considered and gave him additional time to present grounds of appeal under the DESD Act. Tribunal staff also spoke with the Claimant to answer his questions regarding the appeal. The Claimant then wrote to the Tribunal and requested additional time to file documents as he would be meeting with his representative. The Tribunal again extended the time for documents to be filed.

[9] Despite this, the Claimant did not file any additional material with the Tribunal. He has not presented any grounds of appeal that fall under the DESD Act.

[10] I have read the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is no suggestion that the General Division made an error in law or failed to observe a principle of natural justice.

CONCLUSION

[11] Leave to appeal is therefore refused.

Valerie Hazlett Parker
Member, Appeal Division

² DESD Act s. 58(2)

REPRESENTATIVES:	D. S., Self-represented
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