Federal Court  Cour fédérale

Date: 20220503

Docket: T-445-19
T-446-19

Citation: 2022 FC 643

Ottawa, Ontario, May 3, 2022

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

ADELEKE KESHINRO

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] These are two applications for judicial review pursuant to s 18.1 of the *Federal Courts Act*, RSC 1985, c F-7 of decisions rendered by the Social Security Tribunal - Appeal Division. The impugned decisions denied the Applicant's requests for leave to appeal two decisions of the Social Security Tribunal - General Division denying his claims for employment benefits for sick leave and parental leave.

[2] The Applicant brought these applications without the benefit of counsel as he was entitled to do under the Court's rules. Unfortunately, the written materials he filed reflect a lack of familiarity with legal principles and procedures. Among other problems, the Applicant's affidavits tendered in support of the applications contain information which was not before the Tribunal when the decisions were made. When the matters were set down to be heard, the Applicant sought and was granted several adjournments for different reasons on the consent of the Respondent. It was scheduled to be heard again on a peremptory basis on March 31, 2022. However, on that date counsel appeared to advise that he had just been retained and requested a further adjournment in order to become familiar with the file. A further adjournment was granted and the hearing proceeded on April 26, 2022. However, the flaws in the records of both applications remained evident and beyond the capacity of counsel to repair.

[3] For the reasons that follow, the applications are dismissed. While the Court has sympathy for the Applicant and the difficult personal circumstances which led him to file claims for employment benefits and for parental leave support, he has not demonstrated that the Appeal Division erred in denying his requests for leave to appeal.

[4] The signed Judgment and Reasons will be placed on each file.

II. **Facts**

A. *Case regarding Sick-Leave Benefits*

[5] The Applicant is a former teacher who was employed by the York Region District School Board. He took unpaid leave from his position due to medical issues. On December 13, 2015, while on leave from the Board, the Applicant applied for employment insurance sickness benefits. However, he failed to file claims in respect of each week of unemployment as required by s 50(4) of the *Employment Insurance Act*, SC 1996, c 23 [*EIA*]. As a result, he was never paid any benefits.

[6] On March 15, 2018, the Applicant asked that his benefits be antedated to December 13, 2015. However, on April 16, 2018, the Canada Employment Insurance Commission [Commission] informed the Applicant that the benefits could not be antedated because he had failed to show good cause for failing to file reports throughout the entire period of delay from December 2015 to March 5, 2018. The Applicant requested that the Commission reconsider its decision as he alleges that he was not informed of the requirement to complete reports. The Commission maintained its decision on reconsideration.

[7] The Applicant then appealed the Commission's reconsideration decision to the Social Security Tribunal - General Division [General Division] on the same grounds. During the hearing, the Applicant mentioned that he had additional medical evidence covering the period of the delay, which he was allowed to submit after the hearing. The medical evidence consisted of a doctor's note certifying that the Applicant was unable to work from May 20-29, 2015, as well as a letter from a psychologist advising that she had been treating the Applicant for Adjustment Disorder from May 29, 2015 to September 13, 2016 and again from February 16 to August 15, 2017.

[8] The General Division dismissed the appeal on October 30, 2018, due to the failure of the Applicant to file reports as required by s 50(4) of the *EIA* within the time prescribed by s 26(1) of the *Employment Insurance Regulations*, SOR/96-332. The General Division held that the Applicant had not shown good cause for failing to file the reports. The Applicant's argument that he was not informed of the need to file reports was rejected, as the Applicant was given instructions about filing reports on three occasions. The General Division concluded that a reasonable person would have completed the reports, or would have sought clarification. The General Division found that the medical evidence was vague and did not support the contention that the Applicant was incapacitated throughout the entire period of delay. Moreover, the Applicant returned to work from September 2016 to January 2017. The General Division found that, although the Applicant may have suffered from health issues, a prudent and reasonable person would have contacted the Commission during periods of good health after learning that no benefits had been paid. Instead, the Applicant waited until January 2017 when he visited a Service Canada centre to inquire about the benefits he had not received, and it was only on March 5, 2018 that he requested that the Commission antedate his benefits.

[9] The Applicant applied for leave to appeal to the Social Security Tribunal - Appeal Division [Appeal Division] on December 20, 2018 based on the same argument that he had not been given adequate information about the requirement to file reports.

[10] The Social Security Tribunal wrote to the Applicant on December 21, 2018 advising him of missing information and providing him the opportunity to provide same. In particular, he was instructed to provide detailed explanations as to his grounds of appeal and as to why the appeal

would have a reasonable chance of success. The letter specifically advised him that pursuant to s 58(1) of the *Department of Employment and Social Development Act*, SC 2005, c 34 [*DESDA*], the Appeal Division could only consider an appeal based on three enumerated grounds, and that it was not sufficient to "simply indicate that there was an error or that natural justice was not respected. You must explain what the error was or how natural justice was not respected."

[11] By e-mail dated January 15, 2019, the Applicant explained the hardships he had suffered as a result of not receiving the benefits, and also alleged that he had not received a code from the government, which made it difficult to file reports.

[12] On January 16, 2019, the Social Security Tribunal sent a subsequent letter to the Applicant inquiring about the lateness of his application, and repeating the instruction to provide detailed explanations as to his grounds of appeal.

B. *Case regarding Parental Benefits*

[13] The Applicant and his wife have several children. One child was born on March 4, 2017 and the couple encountered difficulties in caring for the newborn as the wife unexpectedly became ill. On March 2, 2018, the Applicant stopped working in order to help his wife care for the child. He applied for seventeen weeks of parental benefits on March 14, 2018. The Commission refused his application on April 3, 2018 on grounds that parental benefits were not payable outside the 52-week window following the birth of a child.

[14] On May 3, 2018, the Applicant requested that the Commission reconsider its decision. The Commission asked questions in order to ascertain whether there were any bases upon which the 52-week period could be extended. Since the Applicant's child had been hospitalized three times within the 52-week window, the Commission modified its original decision and extended the said window by three weeks in accordance with s 23(3) of the *EIA*. Factoring in the one-week waiting period mandated by s 13 of the *EIA*, the Applicant received two weeks of benefits.

[15] On June 28, 2018 the Applicant appealed the Commission's decision to the General Division, seeking the full seventeen weeks of benefits, based on compassionate grounds. Although he was late in filing, he was granted an extension of time.

[16] The General Division considered the Applicant's explanation of the circumstances that led him to take time away from work (his wife's unexpected illness) and his request that the 52-week window be extended on compassionate grounds. Relying on the principle that adjudicators are not permitted to rewrite legislation or to interpret it in a manner contrary to its plain meaning, the General Division concluded that it had no authority to grant parental benefits on compassionate grounds. The Applicant had no documentation to support a finding that there were any other periods when his child was in hospital. Accordingly, on November 21, 2018 the General Division concluded that the Applicant had received his full entitlement to parental benefits under ss 23(2) and 23(3) of the *EIA*.

[17] On December 30, 2018, the Applicant filed a request for leave to appeal the decision of the General Division. He was late in filing the request, but the Appeal Division agreed to consider his request.

[18] By letter dated January 21, 2019, the Social Security Tribunal wrote to the Applicant to advise him that information was missing from his application and to give him an opportunity to provide that information. In particular, he was asked to explain why he filed his application late, and also instructed to explain in detail his grounds for appeal. The Applicant was informed that it was not sufficient to merely repeat the same arguments made to the General Division. The letter specifically advised him that pursuant to s 58(1) of the *DESDA*, the Appeal Division could only consider an appeal based on the three grounds set forth in the statute, and that it was not sufficient to "simply indicate that there was an error or that natural justice was not respected. You must explain what the error was or how natural justice was not respected."

[19] The Applicant responded to the Appeal Division's request for additional information by email on January 27, 2019. With respect to the reasons for his appeal, Applicant alleged that he did not have a fair hearing before the General Division. He also alleged that the General Division did not properly evaluate the evidence regarding his wife's inability to care for their child. Finally, Applicant alleged that the General Division passed judgment prior to the hearing.

III. **Decisions under Review**

A. *Decision regarding the Sick-Leave Benefits*

[20] In a decision dated February 1, 2019, the Appeal Division refused the Applicant's application for leave to appeal on grounds that the appeal had no reasonable chance of success based on a reviewable error made by the General Division.

[21] The Appeal Division found that the Applicant had repeated the same facts in support of his application for leave to appeal that he had already submitted to the General Division. The Appeal Division held that the Applicant had not identified any reviewable error by the General Division which may be reviewed in accordance with the enumerated grounds of s 58(1) of the *DESDA*, namely: an error with respect to jurisdiction, a failure to observe a principle of natural justice, an error in law, or an erroneous finding of fact made in a capricious manner without regard to the material before it. Thus, the Appeal Division concluded that the Applicant had no reasonable chance of success based on a reviewable error made by the General Division.

B. *Case regarding Parental Benefits*

[22] In a decision dated February 1, 2019, the Appeal Division refused the Applicant's leave to appeal on grounds that the appeal has no reasonable chance of success based on a reviewable error made by the General Division.

[23] The Appeal Division summarized the eligibility requirements for parental leave under s 23(2) of the *EIA* and the 52-week window from the birth of the child in which benefits were payable. The Appeal Division noted that the Applicant's child was born on March 4, 2017 and that the Applicant requested parental benefits effective March 4, 2018, which was more than 52 weeks after the week of his child's birth. The Appeal Division further noted that the Commission

had extended the Applicant's window by three weeks in view of the hospitalization of the Applicant's child.

[24] The Appeal Division found that the conclusions of the General Division were supported by undisputed facts, and that the Applicant had not identified a reason for leave to appeal that falls within the permissible grounds of s 58(1) of the *DESDA*. Thus, the Appeal Division was not convinced that an appeal would have a reasonable chance of success and denied leave to appeal.

IV. **Legislative Scheme**

[25] The relevant provisions in both matters are ss 58(1) and 58(2) of the *DESDA* which determine under what conditions leave to appeal of decisions of the General Division may be granted by the Appeal Division.

Grounds of appeal	**Moyens d'appel**
58 (1) The only grounds of appeal are that	**58 (1)** Les seuls moyens d'appel sont les suivants :
(a) the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;	**a)** la division générale n'a pas observé un principe de justice naturelle ou a autrement excédé ou refusé d'exercer sa compétence;
(b) the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or	**b)** elle a rendu une décision entachée d'une erreur de droit, que l'erreur ressorte ou non à la lecture du dossier;

(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.	**c)** elle a fondé sa décision sur une conclusion de fait erronée, tirée de façon abusive ou arbitraire ou sans tenir compte des éléments portés à sa connaissance.
Criteria	**Critère**
(2) Leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success.	**(2)** La division d'appel rejette la demande de permission d'en appeler si elle est convaincue que l'appel n'a aucune chance raisonnable de succès.
Decision	**Décision**
(3) The Appeal Division must either grant or refuse leave to appeal.	(3) Elle accorde ou refuse cette permission.
Reasons	**Motifs**
(4) The Appeal Division must give written reasons for its decision to grant or refuse leave and send copies to the appellant and any other party.	**(4)** Elle rend une décision motivée par écrit et en fait parvenir une copie à l'appelant et à toute autre partie.
Leave granted	**Permission accordée**
(5) If leave to appeal is granted, the application for leave to appeal becomes the notice of appeal and is deemed to have been filed on the day on which the application for leave to appeal was filed.	**(5)** Dans les cas où la permission est accordée, la demande de permission est assimilée à un avis d'appel et celui-ci est réputé avoir été déposé à la date du dépôt de la demande de permission

[26] The following provisions are relevant to the decisions of the General Division for which leave to appeal was refused.

[27] Section 50(4) of the *EIA* provides that a claim must be made within the "prescribed time". Such time is prescribed by s 26(1) of the *Employment Insurance Regulations*.

Employment Insurance Act, SC 1996, c 23	***Loi sur l'assurance-emploi, LC 1996, c 23***
Entitlement to benefits	**Droit aux prestations**
50 (1) A claimant who fails to fulfil or comply with a condition or requirement under this section is not entitled to receive benefits for as long as the condition or requirement is not fulfilled or complied with.	**50 (1)** Tout prestataire qui ne remplit pas une condition ou ne satisfait pas à une exigence prévue par le présent article n'est pas admissible au bénéfice des prestations tant qu'il n'a pas rempli cette condition ou satisfait à cette exigence.
[…]	[…]
Time	**Délai**
(4) A claim for benefits for a week of unemployment in a benefit period shall be made within the prescribed time.	**(4)** Toute demande de prestations pour une semaine de chômage comprise dans une période de prestations est présentée dans le délai prévu par règlement.
Employment Insurance Regulations, SOR/96-332	***Règlement sur l'assurance-emploi, DORS/96-332***
Claim of Benefits	**Demande de prestations**
26 (1) Subject to subsection (2), a claim for benefits for a week of unemployment in a benefit period shall be made by a claimant within three weeks after the week for which benefits are claimed.	**26 (1)** Sous réserve du paragraphe (2), le prestataire qui demande des prestations pour une semaine de chômage comprise dans une période de prestations présente sa demande dans les trois semaines qui suivent cette semaine.
(2) Where a claimant has not made a claim for benefits for four or more consecutive weeks, the first claim for benefits after that period for a	**(2)** Le prestataire qui n'a pas demandé de prestations durant quatre semaines consécutives ou plus et qui en fait la demande par la suite pour une

week of unemployment shall be made within one week after the week for which benefits are claimed.	semaine de chômage présente sa demande dans la semaine qui suit cette dernière.

[28] Subsection 10(5) of the *EIA* provides that a late claim for benefits may be submitted where a claimant established that there was good cause for the delay.

Other late claims	**Autres demandes tardives**
10(5) A claim for benefits, other than an initial claim for benefits, made after the time prescribed for making the claim shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.	**10(5)** Lorsque le prestataire présente une demande de prestations, autre qu'une demande initiale, après le délai prévu par règlement pour la présenter, la demande doit être considérée comme ayant été présentée à une date antérieure si celui-ci démontre qu'il avait, durant toute la période écoulée entre cette date antérieure et la date à laquelle il présente sa demande, un motif valable justifiant son retard.

[29] Subsection 23(3) of the *EIA* provides for an extension of the period of eligibility for benefits where a child is hospitalized.

Parental benefits	**Prestations parentales**
23 (1) Despite section 18, but subject to this section, benefits are payable to a claimant to care for one or more new-born children of the claimant or one or more children placed with the claimant for the purpose of adoption under the laws governing adoption in the	**23 (1)** Malgré l'article 18, mais sous réserve des autres dispositions du présent article, des prestations doivent être payées à un prestataire qui prend soin de son ou de ses nouveau-nés ou d'un ou plusieurs enfants placés chez lui en vue de leur adoption en conformité avec les lois

province in which the claimant resides.	régissant l'adoption dans la province où il réside.
[…]	[…]
Weeks for which benefits may be paid	**Semaines pour lesquelles des prestations peuvent être payées**
(2) Subject to section 12, benefits under this section are payable for each week of unemployment in the period	**2)** Sous réserve de l'article 12, les prestations visées au présent article sont payables pour chaque semaine de chômage comprise dans la période qui :
(a) that begins with the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption; and	**(a)** commence la semaine de la naissance de l'enfant ou des enfants du prestataire ou celle au cours de laquelle le ou les enfants sont réellement placés chez le prestataire en vue de leur adoption;
(b) that ends 52 weeks after the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption.	**b)** se termine cinquante-deux semaines après la semaine de la naissance de l'enfant ou des enfants du prestataire ou celle au cours de laquelle le ou les enfants sont ainsi placés.
Extension of period — children in hospital	**Prolongation de la période en cas d'hospitalisation des enfants**
(3) If the child or children referred to in subsection (1) are hospitalized during the period referred to in subsection (2), the period is extended by the number of weeks during which the child or children are hospitalized.	**(3)** Si l'enfant ou les enfants visés au paragraphe (1) sont hospitalisés au cours de la période prévue au paragraphe (2), celle-ci est prolongée du nombre de semaines que dure l'hospitalisation.

V. **Issues**

[30] The same issues are raised in both applications:

A. As a preliminary matter, should the Court disregard evidence that was not before the Appeal Division?

B. Were the decisions of the Appeal Division reasonable?

VI. **Standard of Review**

[31] The standard of reasonableness applies to decisions of the Appeal Division denying leave to appeal: *Dela Cruz v Canada (Attorney General)*, 2020 FC 744 at para 21 [*Dela Cruz*]. None of the situations that allow for a departure from the presumption of the reasonableness standard are applicable in this case: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 17, 25; *Canada Post Corporation v Canadian Union of Postal Workers*, 2019 SCC 67 at para 27.

[32] A reasonable decision is "based on an internally coherent and rational chain of analysis" and "justified in relation to the facts and law that constrain the decision maker": *Vavilov* at para 85. It must encompass the characteristics of a reasonable decision, namely, justification, transparency and intelligibility: *Vavilov* at para 99, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47 and 74; *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 at para 13. The reviewing court must adopt a deferential approach and intervene only "where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process": *Vavilov* at para 13.

VII. **Analysis**

A. *Admissibility of the Applicant's affidavit evidence*

[33] As a preliminary matter, the Respondent objected to the Applicant's new evidence that was not before the Appeal Division, namely the two affidavits attesting to the Applicant's employment history, his wife's health issues, and the circumstances surrounding the request for sick-leave benefits.

[34] Relying *on Henri v Canada (Attorney General)*, 2016 FCA 38 at paras 39 and 41 [*Henri*], the Respondent argues that consideration of facts that were not before the Appeal Division would turn the Court's attention away from the decision under review and instead towards a *de novo* consideration of the merits. The Respondent submits that this is not the role of judicial review, and would be inconsistent with review on a standard of reasonableness.

[35] The Respondent argues that none of the exceptions allowing for new evidence to be admitted apply to the present matter. In particular, the evidence does not go to procedural fairness, jurisdiction, or background that assists the Court: *Henri* at paras 37, 40. The Respondent further argues that in any event, the evidence is not relevant to the issue raised on judicial review and would not have had any impact on the decision.

[36] As for the procedural fairness exception, counsel for the Respondent maintained in their oral submissions that no issue of procedural fairness was raised. While the Respondent recognized that the letter of from the Social Security Tribunal dated January 16, 2019 may have caused confusion by instructing the Applicant to provide detailed explanations as to his grounds

of appeal after he had already done so, such confusion did not amount to procedural unfairness as the Applicant was aware of the case to be met and given a fair opportunity to respond.

[37] Counsel for the Applicant offered no oral submissions at the hearing to justify the reception of the new evidence and simply repeated the Applicant's assertion that he had been unfairly treated.

[38] The Court agrees with the Respondent that the Court must disregard the two affidavits tendered by the Applicant as they constitute inadmissible new evidence on judicial review. None of the exceptions to the general principle that new evidence is not admissible on an application for judicial review applies to the content of these affidavits.

[39] The affidavits do not provide general background information meant to assist the reviewing court in understanding the issues. Rather, they go beyond the parameters of the exception for general background information, as they contain additional evidence going to the merits of the matter, thus usurping the role of the Social Security Tribunal as fact-finders and merits-deciders: *Henri* at para 40; *Delios v Canada (Attorney General)*, 2015 FCA 117 at para 46; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 20a.

[40] Moreover, they do not illustrate the absence of evidence to show the Court what is missing from the record: *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at para 24 [*Bernard*]. Finally, they are not aimed at revealing an issue of natural justice, procedural fairness,

improper purpose or fraud that could not have been placed before the administrative decision-maker: *Bernard* at para 25. The admission of these affidavits would impermissibly "turn this Court's attention away from the decision under review and towards a de novo consideration of the merits": *Henri* at para 41.

B. Were the decisions of the Appeal Division reasonable?

(1) Case regarding Sick-Leave Benefits

[41] The Applicant's arguments are essentially that the Court should intervene on compassionate grounds "in the interest […] of justice". Specifically he contends as follows:

- As an employee of York Region School Board and under Canadian Labor law he is entitled to the benefits;
- Exhibit A of the Record indicates that he was instructed not to communicate with Service Canada;
- Exhibit B (part of the medical records) shows that his state of mind was unclear at the time;
- He made efforts but never received any payments. The agency or the commission never sent him any information, and they used this against Applicant;
- He is in a poor financial situation and has many unpaid bills;
- The law and the facts of the case are in the Applicant's favour and he has the legal right to claim the benefits;
- Neither the Applicant nor his family should have suffered the deprivations which resulted from the non-payment of the benefits.

[42] In light of the record before the Court, the decision of the Appeal Division to refuse leave to appeal was reasonable. The text of s 58(1) of the *DESDA* provides an exhaustive enumeration of the possible grounds for granting leave to appeal. It was reasonable for the Appeal Division to conclude that none of these grounds were met by the Applicants' request for leave.

[43] The Applicant contends that he did not receive adequate instructions and information from Service Canada. His allegations do not correspond to an error of law, an error of fact made in a perverse or capricious manner or without regard to the material before the Tribunal, nor to a breach of principles of natural justice.

[44] It was reasonable for the Appeal Division to find that the General Division's conclusions were supported by undisputed evidence on the record, as the evidentiary record supported the General Division's finding that the Applicant failed to take "reasonably prompt steps" to determine entitlement to benefits and to satisfy his obligations under the EIA: *Canada (Attorney General) v. Kaler*, 2011 FCA 266 at para 4. The onus is on the Applicant to show good cause for his delay in submitting his claim for employment benefits pursuant to s 10(5) of the *EIA*; however he failed to do so.

[45] As the Federal Court of Appeal noted in *Garvey v Canada (Attorney General)*, 2018 FCA 118 at paras 9-10, a mere disagreement with the application of settled law to the facts of a case does not afford the Appeal Division a basis for intervention under s 58(1) of the *DESDA*. The role of the Appeal Division is not to hear a trial *de novo* where a party can present the same evidence or arguments that were made to the General Division and hope for a different conclusion. Nor can the Appeal Division conduct a new assessment of the evidence. Thus, the Appeal Division reasonably concluded that the Applicant's appeal had no reasonable prospect of success.

[46] The Court understands that the Applicant believes he has been unfairly treated and denied benefits to which he was entitled. At the same time, the Court has difficulty understanding how an educated individual holding a position of some importance with a school board could have been so oblivious to the procedures he needed to follow in order to claim employment benefits. The scant medical evidence in the record offers no explanation for the Applicant's failure to pursue his own interests. It appears that he believed that once his application was initially filed in 2015, the responsibility shifted to Service Canada to ensure that his benefits were paid and he maintained that belief until 2018 despite the absence of transfers to his account. In essence, the Applicant pleads ignorance of the law and begs the Court's intervention on compassionate grounds. While the Court has compassion for the difficult personal circumstances encountered by the Applicant and his family, it is unable to intervene contrary to the law.

(2) Case regarding Parental Benefits

[47] Similarly, in respect of the parental benefits claims, the Applicant contends that the Court should intervene "in the interest […] of justice". He makes the following arguments:

- He is entitled to relief based on compassionate grounds;
- As an employee of York Region School Board and under Canadian Labor law he is entitled to the benefits;
- Service Canada misrepresented his letter;
- Exhibit B - a medical note dated June 8, 2028 confirms the need to stay home to take care of his child;
- The law and the facts are in his favour and he has the legal right to the benefits;
- He has a poor financial situation and had to incur more debts, and there is no daycare in the area;
- Neither the Applicant nor his family should have suffered the deprivations which resulted from the non-payment of the benefits.

[48] Again, the text of s 58(1) of the *DESDA* provides a complete answer to the Applicant's submissions. It sets out an exhaustive enumeration of the permissible grounds for granting leave to appeal. None of those grounds were met in the Applicant's requests for leave. The Applicant seeks to have the Court disregard the statutory language and exercise its discretion to overturn the decisions of both the General Division and the Appeal Division. He lacks an understanding of the limited scope of judicial review. The Court does not have the authority to grant him the remedy which he seeks.

[49] It was reasonable for the Appeal Division to find that the evidentiary record supported the General Division's conclusion that the Applicant had already received his full entitlement of parental benefits pursuant to s 23(2) of the *EIA*. The Applicant did not provide to the General Division evidence of any additional periods of unemployment prior to his child's first birthday, nor did he provide evidence of any additional periods during which his child was in hospital, which could have allowed for a further extension of the 52-week window under s 23(3) of the *EIA*.

[50] It is evident from the decisions of both tribunals that the Applicant's wife's situation was considered, but was not deemed relevant to the determination of entitlement to any further benefits under s 23 of the *EIA*. The statutory scheme under s 23 of the *EIA* does not allow for an extension of the 52-week window during which benefits may be paid on the basis of compassionate grounds, or the health of the child's second parent. Thus, it was reasonable for the Appeal Division to conclude that the Applicant had not set forth a ground for appeal falling within s 58 of the *DESDA*.

VIII. **Conclusion**

[51] For the reasons set out above, the Court is satisfied that the two decisions of the Appeal Division were reasonable and the applications for judicial review should be dismissed.

[52] The Respondent did not seek costs in either application. Nor would the Court consider exercising its discretion to award them in the circumstances.

JUDGMENTS IN T-445-19 and T-446-19

THIS COURT'S JUDGMENT is that the applications are dismissed. No costs are awarded.

"Richard G. Mosley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-445-19
STYLE OF CAUSE:	ADELEKE KESHINRO v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HEARD VIA VIDEOCONFERENCE OTTAWA-TORONTO
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JUDGMENT AND REASONS:	MOSLEY J.
DATED:	MAY 3, 2022

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