

Federal Court



Cour fédérale

**Date: 20160502**

**Docket: T-1328-15**

**Citation: 2016 FC 487**

**Vancouver, British Columbia, May 2, 2016**

**PRESENT: The Honourable Mr. Justice Hughes**

**BETWEEN:**

**FAZAL MAHMOOD**

**Applicant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision of a Member of the Appeal Division of the Social Security Tribunal Appeal Division (SST-AD) dated July 9, 2015 refusing leave to appeal a decision of the General Division of the Social Security Tribunal (SST-GD).

[2] The Ground for refusing to grant leave was that subsection 57(2) of the *Department of Employment and Social Development Act*, SC 2005, c. 34 [Act] does not permit an application to

be made more than one year after the day on which the decision is communicated to the appellant.

[3] It is clear that the application for leave was filed more than one year after the date that the decision was communicated to the appellant. The *Act* does not permit any discretion to be applied. On the standard of correctness the decision was correct.

[4] Even if the *Act* permitted discretion, it was reasonable, if that were the standard to be applied, not to grant an extension. The evidence provided was simply that the Applicant had an undisclosed medical condition that, in the doctor's opinion, prevented him from pursuing the application at the time. It was reasonable to determine that this evidence was insufficient.

[5] At the hearing before me, the Applicant tendered two further doctor's letters as to his medical condition. The Respondent did not object. These letters were not before the SST-AD, and cannot be considered by the Court on judicial review.

[6] The Respondent did not ask for costs.

**JUDGMENT**

**THIS COURT'S JUDGMENT** is that the application is dismissed.

"Roger T. Hughes"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-1328-15

**STYLE OF CAUSE:** MAHMOOD FAZAL v THE ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** MAY 2, 2016

**JUDGMENT AND REASONS:** HUGHES J.

**DATED:** MAY 2, 2016

**APPEARANCES:**

Mahmood Fazal THE APPLICANT ON HIS OWN BEHALF

Mathieu Joncas FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Vancouver, British Columbia