

PENSIONS

Judicial review of Social Security Tribunal Appeal Division (AD) decision dismissing appeal from General Division denying claim for disability benefits — AD granting applicant's leave to appeal pursuant to *Department of Employment and Social Development Act*, S.C. 2005, c. 34 (Act), s. 58 — Applicant submitting AD not considering all grounds advanced in application for leave — Applicant asking Court to quash AD decision, remit matter for redetermination on all grounds — Whether AD's decision not to consider all grounds reasonable — Words of s. 58 precise, unequivocal, supporting applicant's position — AD not having inherent or plenary powers — S. 58 also noteworthy for what powers it does not give to AD — Features of s. 58 suggesting that once AD granting leave to appeal, all grounds set out in application live, before AD — Unless appeal having no merit at all, AD should take appeal on all grounds provided that those grounds falling within categories of s. 58(1) — In this sense, s. 58 furthering access to justice by facilitating recourse by social security claimants — AD not following accepted approach to interpreting legislative provision — Expressing own preference for "hold[ing] full hearings only on issues of substance" — Claiming Act, s. 58(2) not preventing it from picking, choosing among grounds, Parliament not stopping it from doing this — Parliament choosing more limited purpose than administrative efficiency, adjudicative economy, conservation of scarce administrative resources in enacting s. 58 — Parliament's choice not to be overridden because administrative efficiency, adjudicative economy, conservation of scarce administrative resources thought to be good — To state that benefits-conferring legislation must be given "liberal construction" overshooting mark — *Abrahams v. Canada (Attorney General)*, [1983] 1 S.C.R. 2 standing for proposition that if courts left in doubt about authentic meaning of legislation after using interpretive tools, should resolve doubt in favour of benefits claimant — Judge-made rules not empowering judicial, administrative decision makers to ignore or bend authentic meaning of legislation discovered through accepted approach to interpretation — Absent constitutional objection, authentic meaning of legislation must be applied — Laws passed by legislators, not rules made by judges, are supreme — *Interpretation Act*, R.S.C., 1985, c. I-21, s. 12 not licence for courts, administrative decision makers to substitute broad legislative purpose for one that is genuinely narrow or to construe legislative words strictly for strictness' sake — Instructing decision makers to interpret provisions to fulfil purposes they serve, broad or narrow, no more, no less — Intensity of reasonableness review does not matter here — AD's decision unreasonable under any level of intensity of review — AD should have considered, determined all grounds raised by applicant as long as they fell within categories in Act, s. 58(1) — Matter remitted to different member of AD — Application allowed.

HILLIER V. CANADA (ATTORNEY GENERAL) (A-77-18, 2019 FCA 44, Stratas J.A., judgment dated March 5, 2019, 20 pp.)