Citation: *N. F. v. Canada Employment Insurance Commission*, 2015 SSTAD 344

Appeal No. AD-13-116

BETWEEN:

N. F.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: March 12, 2015

DECISION: Appeal allowed

DECISION

[1] The appeal is allowed. The matter is returned to the General Division for reconsideration.

INTRODUCTION

[2] On March 28, 2013, a panel of the board of referees ("the Board") determined that the appeal of the Appellant should be allowed in part. In due course, the Appellant filed an application with the Appeal Division requesting leave to appeal. On February 4, 2015, leave to appeal was granted.

[3] This appeal was decided on the record.

THE LAW

[4] According to subsection 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are that:

> (a) the General Division [or the Board] failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
>
> (b) the General Division [or the Board] erred in law in making its decision, whether or not the error appears on the face of the record; or
>
> (c) the General Division [or the Board] 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.

[5] As previously determined by the Federal Court of Appeal in *Canada (Attorney General) v. Jewett* 2013 FCA 243, *Chaulk v. Canada (Attorney General)* 2012 FCA 190 and many other cases, the standard of review for questions of law and jurisdiction in employment insurance appeals is that of correctness, while the standard of review for questions of fact and mixed fact and law in employment insurance appeals is reasonableness.

ANALYSIS

[6] In her appeal, the Appellant submits that she left her job because of health issues, and the Board erred by not allowing her appeal on the issue of voluntary leaving.

[7] The Commission admits that the Board erred in its decision. Specifically, they concede that the Board appeared not to fully understand the test to be applied on the issue of voluntary leaving and did not provide full reasons for the other issues before them. They ask that the matter be returned to the General Division for a new hearing.

[8] In its decision, the Board ordered that

> "The Commission is to separate the claimants' employment with [Employer A] for which the Board finds that she had no just cause for leaving and her employment with [Employer B] for which the Board finds that she was available for work and to allow benefits to be paid for the period June 30, 2012 to September 6, 2012."

[9] It is not clear what is meant by this, or what basis in law this passage rests upon.

[10] Full written reasons must be given for all Board decisions. Without written reasons, it is impossible for the parties to understand the reasoning of the Board or to assess properly grounds for appeal. Stating the evidence and submissions in great detail is not an appropriate substitute for making findings of fact and law as required.

[11] I agree with the submissions of the parties that this decision cannot stand. The appropriate remedy is for this matter to be returned to the General Division for reconsideration.

CONCLUSION

[12] Therefore, on consent and for the reasons above, the appeal is allowed. The matter is returned to the General Division for reconsideration.

Mark Borer
Member, Appeal Division