

**[TRANSLATION]**

**Citation: *C. T. v. Canada Employment Insurance Commission*, 2015 SSTAD 963**

**Date: August 5, 2015**

**File number: AD-15-327**

**APPEAL DIVISION**

**Between:**

**C. T.**

**Applicant**

**and**

**Canada Employment Insurance Commission**

**Respondent**

**and**

**Autogéner Inc.**

**Added Party**

**Decision by: Pierre Lafontaine, Member, Appeal Division**

## **REASONS AND DECISION**

### **DECISION**

[1] The Social Security Tribunal (the Tribunal) refuses leave to appeal before its Appeal Division.

### **INTRODUCTION**

[2] On May 4, 2015, the Tribunal's General Division concluded the following:

- The Applicant had voluntarily left his employment without just cause pursuant to section 29 and subsections 30(1) and 30(2) of the *Employment Insurance Act* (the Act).

[3] On June 1, 2015, the Applicant applied for leave to appeal before the Appeal Division.

### **ISSUE**

[4] The Tribunal must decide whether the appeal has a reasonable chance of success.

### **THE LAW**

[5] Pursuant to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, "an appeal to the Appeal Division may only be brought if leave to appeal is granted" and "the Appeal Division must either grant or refuse leave to appeal."

[6] Subsection 58(2) of the *Department of Employment and Social Development Act* provides that "leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success."

### **ANALYSIS**

[7] In accordance with section 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are as follows:

(a) the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

(b) the General Division erred in law in making its decision or order, whether or not the error appears on the face of the record; or

(c) the General Division based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[8] A leave to appeal proceeding is a preliminary step to a hearing on the merits. It is a first and lower hurdle for the Applicant to meet than the one that must be met during the hearing of the appeal on the merits. At the leave stage, the Applicant does not have to prove his or her case.

[9] Leave to appeal is granted by the Tribunal if it is satisfied that one of the aforementioned grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, pursuant to subsection 58(1) of the *Department of Employment and Social Development Act*, whether there is a question of law, of fact or of jurisdiction whose response might justify setting aside the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In his application for leave to appeal, the Appellant stated that he had no choice but to leave his employment because he had reached his physical limit in his situation with his employer, who did not respect his rights and his employment contract.

[13] On July 2, 2015, the Tribunal asked the Applicant in writing to provide the detailed grounds of appeal in support of his application for leave to appeal pursuant to subsection 58(1) of the *Department of Employment and Social Development Act*.

[14] In his reply to the Tribunal on July 29, 2015, the Applicant essentially repeated the facts in support of his position, facts that were previously submitted to the General Division for assessment. Unfortunately, the appeal before the Appeal Division is not subject to a *de novo* hearing, that is, where a party may present its evidence again and hope for a favourable decision.

[15] The Tribunal finds that, despite the specific request from the Tribunal on July 2, 2015, the Applicant did not raise any questions of fact, of law or of jurisdiction whose response might justify setting aside the decision under review.

[16] The Tribunal has no choice but to conclude that the appeal has no reasonable chance of success.

## **CONCLUSION**

[17] Leave to appeal is refused.

*Pierre Lafontaine*  
Member, Appeal Division