



[TRANSLATION]

Citation: *J. R. v. Canada Employment Insurance Commission*, 2016 SSTADEI 54

Appeal Number: AD-16-144

BETWEEN:

J. R.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division – Leave to Appeal

DECISION BY: Pierre Lafontaine

DECISION DATE: February 1, 2016

REASONS AND DECISION

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On December 3, 2015, the Tribunal's General Division found that:

- The Applicant had voluntarily left his employment without just cause within the meaning of sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] On January 11, 2016, the Applicant filed an application for leave to appeal before the Appeal Division.

ISSUE

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

THE LAW

[5] As stated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, “[a]n 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* states that “[l]eave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Under subsection 58(1) of the *Department of Employment and Social Development Act*, the following are the only grounds of appeal:

- (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] An application for leave to appeal 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 on the hearing of the appeal on the merits. At the application for leave to appeal stage, the applicant does not have to prove his case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the *Department of Employment and Social Development Act*, whether there is a question of law, fact, or jurisdiction to which the 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 Applicant submits that he is disappointed with the General Division's decision. He finds the language used in the decision inappropriate as he did not go for a [translation] "long shot" or act on a "feeling" by quitting his job.

[13] He states that he has maintained the same stance since last March: he had to leave his job to improve his lot and he thought long and hard before making that decision. He had made serious efforts to find a job for several months but he was never hired by an

employer. However, less than a week after he left, an employer approached him for a contract.

[14] As underscored by the General Division, the Federal Court of Appeal has many times reiterated that leaving an employment in order to improve one's situation does not constitute just cause within the meaning of paragraph 29(c) of the Act - *Canada (A.G.) v. Langevin*, 2011 FCA 163, *Canada (A.G.) v. Langlois*, 2008 FCA 18.

[15] The General Division also underscored that, in accordance with the teachings of the Federal Court of Appeal in *Canada (A.G.) v. Muhammad Imran*, 2008 FCA 17 and *Canada (A.G.) v. Lessard*, 2002 FCA 469, there cannot be "reasonable assurance of another employment " within the meaning of subparagraph 29(c)(vi) of the Act when the evidence shows that the Applicant, when he made the decision to become unemployed, did not know what job he would obtain or who his employer would be, and he did not know at what point in the future he would have a job.

[16] Upon review of the appeal file, the General Division's decision, and the arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[17] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine

Member, Appeal Division