



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. M. v. Canada Employment Insurance Commission*, 2016 SSTADEI 127

Tribunal File Number: AD-16-184

BETWEEN:

C. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division– Leave to Appeal decision

DECISION BY:: Pierre Lafontaine

DATE OF DECISION: March 7, 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 16, 2015, the General Division of the Tribunal determined that:

- A disqualification should be imposed pursuant to sections 29 and 30 of the *Employment Insurance Act* (the “*Act*”) because the Appellant lost his employment by reason of his own misconduct.

[3] The Applicant requested leave to appeal to the Appeal Division on January 19, 2016.

ISSUE

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

THE LAW

[5] According to subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act* (the “*DESD 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 *DESD 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] Subsection 58(1) of the *DESD Act* states that the only grounds of appeal are the following:

- (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, whether or not the error appears on the face of the record; or
- (c) The General Division 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.

[8] In regards to the application for permission to appeal, the Tribunal needs to be satisfied that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success, before leave can be granted.

[9] The General Division, after reviewing the evidence before it, determined that the Applicant threatening another employee led to his dismissal. This event was admitted by the Applicant (GD3-31, GD3-33).

[10] In his application for leave to appeal, the Applicant states that the General Division failed to observe a principal of natural justice and did not weigh the evidence and came to a bias decision. He wants to be heard in person by a board of referees.

[11] On January 25, 2016, a letter was sent to the Applicant requesting that he explain in details his grounds of appeal. The Applicant was upset by this request of the Tribunal and wanted to proceed directly to the Federal Court. On February 18, 2016, the Tribunal received the reply of the Applicant.

[12] In his reply, the Applicant states that he gave eight years of his life to a company that does not care for their employees. He submits that he paid in the EI program but that the system only works in favor of the government. He states that he wants to be heard in front of a panel of judges so that the truth can be heard. He further repeats his version of events and files three letters from co-workers that support his position.

[13] Unfortunately for the Applicant, an appeal to the Appeal Division of the Tribunal is not a *de novo* hearing, where a party can represent evidence and hope for a new favorable outcome. It is not the role of the Appeal Division to re-evaluate and reweigh evidence that was already submitted (or should have been) to the General Division.

[14] The Tribunal finds that the Applicant has not identified any errors of jurisdiction or any failure by the General Division to observe a principle of natural justice. He has not identified errors in law nor identified any erroneous findings of fact which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[15] After review of the appeal file, the decision of the General Division and the arguments of the Applicant in support of his Application, the Tribunal is not satisfied that the appeal has a reasonable chance of success.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division