



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. E. v. Canada Employment Insurance Commission*, 2016 SSTADEI 142

Tribunal File Number: AD-16-340

BETWEEN:

G. E.

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 11, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On January 28, 2016, the General Division of the Tribunal determined that:

- The Applicant did not have just cause to leave his employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (the “Act”).

[3] The Applicant requested leave to appeal to the Appeal Division on February 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] The Tribunal needs to be satisfied that the reasons for appeal fall within any of the above grounds of appeal and that at least one of the reasons has a reasonable chance of success before leave can be granted.

[9] In this case, the General Division had to decide if the Applicant had just cause to leave his employment. The General Division found that, having given due consideration to all of the circumstances, the Appellant had alternatives available to him rather than leave his employment when he did.

[10] The Applicant, in his application for leave, states that he believes that there were errors made by the General Division regarding the facts of his case and that he has additional information that might change the decision of the General Division.

[11] The Tribunal is not convinced that the factual errors raised by the Applicant are material to the decision rendered by the General Division. In regards to the additional information supplied by the Applicant, the Tribunal finds that the Applicant would essentially like to represent his case with clarifications after the unfavorable decision of the General Division.

[12] 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.

[13] The Applicant in his leave application has not identified any errors of jurisdiction or 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.

[14] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of his request for leave to appeal, the Tribunal is not satisfied that the appeal has a reasonable chance of success.

CONCLUSION

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

Pierre Lafontaine
Member, Appeal Division