



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *Canada Employment Insurance Commission v. J. B.*, 2016 SSTADEI 140

Tribunal File Number: AD-16-353

BETWEEN:

**Canada Employment Insurance Commission**

Applicant

and

**J. B.**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal decision**

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DECISION BY: Pierre Lafontaine

DATE OF DECISION: March 11, 2016

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On February 15, 2016, the General Division of the Tribunal determined that:

- The Respondent left her employment with just cause in accordance with sections 29 and 30 of the *Employment Insurance Act* (the “Act”)

[3] The Applicant requested leave to appeal to the Appeal Division on February 25, 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 Applicant submits that pursuant to section 58(1)(b) and (c) of the *DESD Act*, the General Division made an error in fact and in law in allowing the appeal.

[10] The Applicant submits that the General Division misapplied the principle established in the Federal Court of Appeal decision in *Canada (AG) v. Langlois*, 2008 FCA 18, to the matter at hand. In said case, the Court confirmed that while it is legitimate for a worker to want to improve his life by changing employers, he cannot expect those who contribute to the Employment Insurance fund to bear the cost of that legitimate desire.

[11] The Applicant further argues that a proper application of the facts of this case to the legal test for just cause leads to the reasonable conclusion that the Respondent has not shown that she had no reasonable alternative to leaving employment at the Pascal Poirier Manor on July 17, 2015, pursuant to section 29(c) of the *Act*.

[12] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of its request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success.

[13] The Applicant has set out reasons which fall into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

## **CONCLUSION**

[14] The Tribunal grants leave to appeal to the Appeal Division of the Social Security Tribunal.

*Pierre Lafontaine*  
Member, Appeal Division