



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. R. v. Canada Employment Insurance Commission and J. B.*, 2016 SSTADEI 170

Tribunal File Number: AD-14-283

BETWEEN:

M. R.

Appellant

and

Canada Employment Insurance Commission

and

J. B.

Respondents

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division – Appeal

SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: March 30, 2016

DECISION: Appeal dismissed

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] On April 30, 2014, a General Division member allowed the appeal of the Employer against the previous determination of the Commission.

[3] In due course, the Appellant filed an application for leave to appeal with the Appeal Division and leave to appeal was granted.

[4] On November 19, 2015, a teleconference hearing was held. The Commission, Employer, and Appellant each attended and made submissions.

THE LAW

[5] According to subsection 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are that:

- (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.

ANALYSIS

[6] This case revolves around the application of the law and jurisprudence regarding voluntary leaving.

[7] In her written submissions, the Appellant states that her Employer did not properly pay her for overtime worked. The Appellant also complained of several workplace issues related to caring for the Employer's children. She maintains that by not considering and accepting these arguments, the General Division member erred in finding that she had reasonable alternatives to leaving her Employment.

[8] The Commission initially determined that the Appellant had shown just cause for leaving. Notwithstanding this, they submit that the General Division decision is a reasonable one in that the member's conclusions were open to him and supported by the evidence. As such, even though it is contrary to their own initial determination, they admit that his decision should be upheld.

[9] The Employer, for his part, supports the member's decision and opposes the appeal.

[10] In argument before me, the Appellant largely repeated the complaints against her Employer that she had made to the General Division. It became clear during the hearing that she was asking that I re-weigh the evidence and come to a conclusion more favourable to her, rather than alleging any particular error.

[11] In his decision, the General Division member stated the law before considering the evidence. Ultimately, he did not agree with the Appellant that she had no reasonable alternative to leaving her employment, given all of the circumstances. In particular, he noted that her Employer offered additional work which she refused and that many, if not all, of the Appellant's complaints against the Employer had not been substantiated.

[12] After listening to the Appellant's arguments and considering her written submissions, I am not convinced that the member erred. The member was called upon to make findings of fact and apply the law to those facts. In my view, as evidenced by the decision and record, the member conducted a proper hearing, weighed the evidence, made reasonable findings of fact, established the correct law, and came to a conclusion that was intelligible and understandable.

[13] This appeal cannot succeed.

CONCLUSION

[14] For the above reasons, the appeal is dismissed.

Mark Borer

Member, Appeal Division