



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. L. v. Canada Employment Insurance Commission*, 2016 SSTADEI 192

Tribunal File Number: AD-15-945

BETWEEN:

C. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Appeal decision

DECISION BY:: Pierre Lafontaine

HEARD ON: March 31, 2016

DATE OF DECISION April 8, 2016

REASONS AND DECISION

DECISION

[1] The appeal is granted and the file returned to the General Division (Employment Insurance Section) for a new hearing.

INTRODUCTION

[2] On July 28, 2015, the General Division of the Tribunal determined that:

- The Appellant left his employment without just cause in accordance with sections 29 and 30 of the *Employment Insurance Act* (the “Act”)

[3] The Appellant requested leave to appeal to the Appeal Division on August 26, 2015. Leave to appeal was granted on September 29, 2015.

TYPE OF HEARING

[4] The Tribunal held a telephone hearing for the following reasons:

- The complexity of the issue(s) under appeal.

- The fact that the credibility of the parties is not anticipated being a prevailing issue.

- The information in the file, including the need for additional information.

- The requirement under the *Social Security Tribunal Regulations* to proceed as informally and quickly as circumstances, fairness, and natural justice permit.

[5] The Appellant was present at the hearing with his daughter R. L. The Respondent was represented by Rachel Paquette.

ISSUE

[6] The Tribunal must decide if the General Division erred when it concluded that the Appellant left his employment without just cause in accordance with sections 29 and 30 of the *Act*.

THE LAW

[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.

ANALYSIS

[8] The Appellant submits that the General Division did not consider his argument that he left his employment because he had a reasonable assurance of another employment in the immediate future as per section 29(c)(vi) of the *Act*. He submits that during his hearing, he explained to the Member about his family's financial struggle and that he took a higher paid job in a US company. His last day of work was September 5, 2014. He files a letter confirming that his new employment started September 9, 2014 (AD1-2).

[9] In appeal, the Respondent offers no opposition to the file being sent back to the General Division for a new hearing on the issue of voluntary leaving.

[10] The General Division concludes in its decision that the Appellant had other reasonable alternatives to leaving his employment when he did. The General Division mentions that he could have sought work elsewhere before quitting his employment.

[11] The position of the Appellant is that he did seek work elsewhere before he quit. He actually found another job and testified to that effect before the General Division. He pleads that the evidence before the General Division supports his claim that he had just cause for voluntarily leaving an employment or taking leave from his employment because he had a “reasonable assurance of another employment in the immediate future”.

[12] The Tribunal finds that the matter should be sent back to the General Division of the Tribunal (Employment Insurance Section) for a new hearing. It is clear from all of the evidence that this issue was not properly addressed by the General Division.

[13] It is imperative for the General Division to address all issues presented by a claimant and to explain their findings in a coherent and consistent reasoning - *McDonald v. Canada (AG)*, A-297-97.

CONCLUSION

[14] The appeal is granted and the file is returned to the General Division of the Tribunal (Employment Insurance Section) for a new hearing.

[15] The Tribunal orders that the decision of the General Division dated July 28, 2015, be withdrawn from the file.

Pierre Lafontaine
Member, Appeal Division