



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. B. v. Canada Employment Insurance Commission*, 2016 SSTADEI 211

Tribunal File Number: AD-16-378

BETWEEN:

C. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to appeal decision

DECISION BY:: Pierre Lafontaine

DATE OF DECISION: April 15, 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 26, 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 March 1st, 2016. He is deemed to have received the decision of the General Division on February 8, 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 of the Applicant 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] In this case, the General Division had to decide if the Applicant had just cause to leave his employment

[10] The Applicant, in his application for leave to appeal, states that he never planned or talked to his wife prior to leaving his job contrary to the decision of the General Division. He pleads that his family was affected and suffered from the treatment they received on the Social Media Facebook. He submits that after the arrest of his son, he needed to be home to take care of his wife and children.

[11] On March 7, 2016, the Applicant was requested by the Tribunal to explain in detail why he was appealing the decision of the General Division.

[12] In his reply received on April 5, 2016, the Applicant states that he has more evidence to provide regarding his reason for leaving his job. He argues that he was misled by the representative who said he would try to get him something before Christmas or the New Year. He really believed he was going to receive monies at that time.

[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.

[14] The Tribunal finds that the Applicant has not identified in his leave application any 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] While an applicant is not required to prove the grounds of appeal for the purposes of a leave application, at the very least, an applicant ought to set out some reasons which fall into the enumerated grounds of appeal. The Application is deficient in this regard and the Tribunal is not satisfied that the appeal has a reasonable chance of success.

CONCLUSION

[16] The Application is refused.

Pierre Lafontaine

Member, Appeal Division