



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *A. L. v. Canada Employment Insurance Commission*, 2016 SSTADEI 212

Tribunal File Number: AD-16-495

BETWEEN:

**A. L.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

and

**Shefford Textiles Ltd.**

Added party

---

**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 grants leave to appeal before the Appeal Division of the Social Security Tribunal.

### **INTRODUCTION**

[2] On February 22, 2016, the Tribunal's General Division found that:

- The Applicant had voluntarily left his employment without just cause within the meaning of sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] On March 31, 2016, the Applicant filed an application for leave to appeal before the Appeal Division after having received the General Division's decision on March 1, 2016.

### **ISSUE**

[4] The Tribunal must determine whether the appeal has a reasonable chance of success.

### **THE LAW**

[5] As stated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, “[a]n 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 *Department of Employment and Social Development Act* states that “[l]eave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

### **ANALYSIS**

[7] Under subsection 58(1) of the *Department of Employment and Social Development Act*, the following are the only grounds of appeal:

- (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 or order, whether or not the error appears on the face of the record; or
- (c) the General Division based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[8] An application for leave to appeal is a preliminary step to a hearing on the merits. It is a first, and lower, hurdle for the applicant to meet than the one that must be met on the hearing of the appeal on the merits. At the application for leave to appeal stage, the applicant does not have to prove his case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the *Department of Employment and Social Development Act*, whether there is a question of law, fact, or jurisdiction to which the response might justify setting aside the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In his application for leave to appeal, the Applicant submits that the General Division erred in law in making its decision by failing to take into account a reason for leaving submitted by the Applicant because it had not been initially brought up.

[13] The Applicant also submits that the General Division imposed on him a burden of proof that was heavier than that of the balance of probabilities. He states that he is not obligated to submit evidence beyond a reasonable doubt.

[14] The Applicant submits that the General Division disregarded his evidence on the grounds he raised, namely subparagraphs 29(c) (iv), 29(c) (ix), and 29(c) (xi) of the Act, without providing an explanation. He also claims that the General Division erred when it did not take into account the facts regarding the attitude of the Respondent's representatives during the investigation.

[15] He states that, given the circumstances, the General Division's decision does not meet the criteria set out by the Act or case law regarding voluntary leaving.

[16] Upon review of the appeal file, the General Division's decision, and the arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has raised several questions relating to the General Division's interpretation and application of paragraph 29(c) of the Act, the answers to which may lead to the setting aside of the decision under review.

## **CONCLUSION**

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

*Pierre Lafontaine*  
Member, Appeal Division