



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. M. v. Canada Employment Insurance Commission*, 2016 SSTADEI 226

Tribunal File Number: AD-15-1222

BETWEEN:

R. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to appeal decision

DECISION BY: Pierre Lafontaine

DATE OF DECISION: April 22, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On September 30, 2015, 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 November 6, 2015 after the decision of the General Division was sent to him on October 7, 2015.

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. The Applicant, in his application for leave to appeal, states that he is appealing because of missing and false information.

[10] On January 27, 2016, the Applicant was requested by the Tribunal to explain in detail why he was appealing the decision of the General Division with a deadline to respond of February 29, 2016.

[11] In his reply received on February 27, 2016, the Applicant states that before he was assaulted on the job, he was waiting to hear back from the employer for a wage negotiation.

[12] On March 15, 2016, the Applicant was requested again by the Tribunal to explain in detail why he was appealing the decision of the General Division with a deadline to respond of April 14, 2016.

[13] The Applicant failed to respond to the second detail request of the Tribunal.

[14] 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.

[15] 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.

[16] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of his request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[17] The Application is refused.

Pierre Lafontaine
Member, Appeal Division