



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *W. N. v. Canada Employment Insurance Commission*, 2016 SSTADEI 234

Tribunal File Number: AD-16-385

BETWEEN:

W. N.

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 26, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On February 29, 2016, the General Division of the Tribunal determined that:

- A disqualification should be imposed pursuant to sections 29 and 30 of the *Employment Insurance Act (Act)* because the Appellant voluntarily left his employment without just cause;
- The imposition of a penalty pursuant to section 38 of the *Act* was justified because the Appellant made a misrepresentation by knowingly providing false or misleading statements.

[3] The Applicant requested leave to appeal to the Appeal Division on March 2, 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 and if a penalty was warranted.

[10] The Applicant, in his application for leave to appeal, states that he is appealing because he disagrees with the decision of the General Division in its entirety. He pleads that the decision is based on complete errors and misinformation.

[11] On March 10, 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 April 11, 2016.

[12] In his reply received on March 11, 2016, the Applicant states that he is innocent of this matter and that the situation needs to be corrected and closed. He essentially argues that Service Canada has significant organizational and systemic problems and failures in the system that keeps on reoccurring over and over and over again and innocent people like himself get caught up in this system.

[13] He pleads that the process before the General Division had the distinct air of cover-up, deep distrust and is clearly a system in failure and spiraling complexity. As mentioned over the years and in submissions, he refuses to admit to fraud that he did not commit or knew anything about in any event because such is quite simply unethical to do. He argues that one cannot and should not be forced to admit to something they did not do.

[14] On March 31, 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 22, 2016.

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

[16] The Tribunal has no choice but to find 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.

[17] The Applicant makes it clear in his application for leave to appeal that he is unsatisfied with Service Canada and pleads that the decision is based on complete errors and misinformation. However, although requested in writing on several occasions by the Tribunal, he does not identify the errors and the misinformation the General Division based its decision on.

[18] It is not for the Member deciding whether to grant leave to appeal to clarify the grounds of appeal of an applicant under subsection 58(1) of the *DESD Act* or to explore the merits of the decision of the General Division.

[19] Furthermore, the Federal Court of Appeal does not consider a “just cause” for leaving an employment under section 29(c) of the *Act* which would depend on a claimant “trying out” an employment and evaluating whether said employment is suitable for him or her – *Canada (AG) v. Campeau*, 2006 FCA 376.

[20] 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

[21] The Application is refused.

Pierre Lafontaine

Member, Appeal Division