



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. S. v. Canada Employment Insurance Commission*, 2016 SSTADEI 274

Tribunal File Number: AD-16-379

BETWEEN:

S. S.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal decision

DECISION BY: Pierre Lafontaine

DATE OF DECISION: May 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 August 31, 2015, the General Division of the Tribunal determined that:

- The Applicant did not have just cause for voluntarily leaving 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 February 29, 2016 after receiving the General Division decision on January 26, 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] In regards to the application for permission to appeal, the Tribunal needs to be satisfied that the reasons for appeal 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] On February 29, 2016, the Applicant stated in his application for permission to appeal that he needed more time to file a copy of the decision of the General Division and to file his grounds of appeal since he might need to seek legal assistance (Exhibits AD-1- 1 to AD1-7).

[10] On March 11, 2016, the Applicant filed with the Tribunal a copy of the General Division decision (Exhibit AD1B-1 to AD1B-9).

[11] On March 14, 2016, the Applicant was requested by the Tribunal to explain in detail his grounds of appeal with a deadline of April 8, 2016.

[12] On April 8, 2016, the Applicant requested an extension of time to supply to the Tribunal the requested information. On April 13, 2016, an extension of time was granted by the Tribunal with a new deadline of May 20, 2016.

[13] On May 20, 2016, the Applicant replied to the request of the Tribunal and supplied his detailed grounds of appeal (Exhibits AD3-1 to AD3-12).

[14] In support of his application for permission to appeal, the Applicant argues that his answers and explanations are not noted, nor recorded as such and do not appear in the

written word summary and conclusion of the General Division. He pleads that he never said he left his employment to work on the distribution of the assets of his mother's estate or to sell her house but rather that he left his job because his mother's house was to be sold in accordance with her will and he had to move out. It was his intention to move away from Vancouver to find affordable, suitable housing and possible employment. He submits that he left his job on February 24, 2014 since his mother's will was planned to clear probate in May 2014. The estate however did not clear probate until August 1, 2014. He finally moved on August 14, 2014 and the house was sold on/or September 22, 2014.

[15] Considering the grounds invoked by the Applicant, the Tribunal proceeded to listen to the recording of the hearing before the General Division.

[16] Although it is true that the Applicant did not specifically testify to the effect that he left his job to take care of the estate of his mother or to sell her house, he did state before the General Division and in his application for permission to appeal that he left his job because his mother's house was to be sold in accordance with her will and that he had to move out. He added that it was his intention to move away from Vancouver to find affordable, suitable housing and possible employment.

[17] A constant jurisprudence has long established that leaving one's employment because of problems related to accommodation and other personal reasons not related to employment does not constitute just cause pursuant to the *Act*.

[18] For the above mentioned reasons and 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

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

Pierre Lafontaine
Member, Appeal Division

