



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. V. v. Canada Employment Insurance Commission*, 2016 SSTADEI 299

Tribunal File Number: AD-16-747

BETWEEN:

S. V.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal decision

DECISION BY: Pierre Lafontaine

DATE OF DECISION: June 10, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On May 10, 2016, the General Division 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 May 30, 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] The Applicant notably argues that although he was represented by counsel at the hearing on April 26, 2016, the Member did not allow his counsel to participate at the hearing until the end of the hearing. He submits that the Member took over the hearing and started questioning him. The employer was not present at the hearing. He further submits that the Member was biased since he started off the hearing by accepting the employer's version of events and documents. He submits that the Member's questioning was so biased that he acted like the employer's counsel.

[10] After listening to the recording of the hearing before the General Division, reviewing the docket of appeal and the decision of the General Division and considering the argument of the Applicant in support of his request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out a reason which falls into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division