



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *K. A. Professional Corporation v. Canada Employment Insurance Commission*,
2016 SSTADEI 296

Tribunal File Number: AD-16-392

BETWEEN:

K. A. Professional Corporation

Applicant

and

Canada Employment Insurance Commission

Respondent

and

N. B.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division – Leave to Appeal decision

DECISION BY: Pierre Lafontaine

DATE OF DECISION: June 8, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On February 8, 2016, the General Division of the Tribunal determined that:

- The Applicant did not voluntarily leave her 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 March 8, 2016 after receiving the decision of the General Division on February 16, 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 Applicant needs to satisfy the Tribunal 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 submits that the General Division ignored relevant and key evidence in finding that the Claimant did not quit her job, while the evidence established that the totality of her actions were designed to cause the Applicant to dismiss the Claimant so that she would be entitled to collect EI benefits. The Applicant supplied a detailed review of the facts that it argues were ignored by the General Division.

[10] The Applicant further submits that it had no opportunity to cross-examine the Claimant during the hearing. The Applicant pleads that the General Division failed to observe a principal of natural justice.

[11] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of its request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out reasons which fall into the above enumerated grounds of appeal that could possibly lead to the reversal of the disputed decision.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division