



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. T. v. Canada Employment Insurance Commission*, 2016 SSTADEI 298

Tribunal File Number: AD-16-733

BETWEEN:

C. T.

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 refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

INTRODUCTION

[2] On May 4, 2016, 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 May 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] In support of his application for permission to appeal, the Applicant argues that the General Division failed to base its decision on the facts he provided. He submits that the General Division keeps talking about him working in a store while he was in fact working in a warehouse. He pleads that this is important since he could not get a transfer from a warehouse to a store. They are two completely different places of work and different jobs. He further submits that the General Division erred in fact when it stated in its decision that he was not a member of the union.

[10] The Applicant further pleads that the General Division should not have taken into account that he did not look for rental accommodations close to his work. He feels that this should not have been a reason for denial of benefits. The Applicant submits that he should not be refused benefits because he could not afford to rent a place or a room on his own. He argues that it was very hard leaving his place of residence and the job he loved doing and to be told time and time again that he could have stayed at his job when he could not. He submits that if he had stayed at his workplace living very far and traveling a long time to and from work he would not have been able to make shifts and would have been late for them causing him to have a bad reputation.

[11] The Applicant stated in his initial application for benefits that he quit his job to move to Alberta to live with his father and to go to school (Exhibit GD3-15). The employer confirmed the reasons given by the Applicant (Exhibit GD3-19). The Applicant also wrote a resignation letter to the employer to say that he was leaving the Province of Ontario for a long period of time (Exhibit GD3-20).

[12] The Applicant was contacted to follow up on his request for reconsideration. He stated that he was told the reason he was denied benefits was because he was going back to school. The Applicant then stated that it was not the full reason he quit. The Applicant quit to move to Alberta where his father lived. He put down his future plans of going to school so it would look better on paper. Before he left to go to Alberta, his grandfather got sick and then passed away. He further stated that he had now moved in with his grandmother in X. The Applicant stated he had to leave his job as he did not have a place to live in X anymore and because X is too far to X where the employer is (Exhibit GD3-21).

[13] The Tribunal finds that although the General Division made factual errors in its decision regarding the Applicant's type of work and union membership, these errors are not material to the issue of voluntary leaving in the present case.

[14] Unfortunately for the Applicant, 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, like moving to live with a family member, does not constitute just cause pursuant to the *Act*.

[15] 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

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

Pierre Lafontaine

Member, Appeal Division