



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *T. P. v. Canada Employment Insurance Commission*, 2016 SSTADEI 380

Tribunal File Number: AD-16-902

BETWEEN:

T. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: July 18, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On June 3, 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 July 7, 2016 after receiving the General Division decision on June 13, 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 General Division found that the Applicant had other options open to him rather than quit his employment when he did. He could have remained employed with Kerr Bros Ltd. until such a time as he found other, more suitable, employment in Ontario or Newfoundland. He could have remained employed with Kerr Bros Ltd. until such a time as he found other, more suitable, accommodations.

[10] In support of his application for permission to appeal, the Applicant essentially argues that although he did leave Ontario to move back to Newfoundland with his family and look for another job or go back to school, it was not a choice that he would have made if he could have found cheaper rent and found another job there. He submits that he should still be entitled to receive EI benefits since he paid into it.

[11] In his application for leave to appeal, the Applicant is basically asking this Tribunal to re-evaluate and reweigh the evidence that was already submitted to the General Division which is the province of the trier of fact and not of an appeal court. It is not for the Member deciding whether to grant leave to appeal to reweigh the evidence or explore the merits of the decision of the General Division.

[12] 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 going back to school without approval from the Respondent, does not constitute just cause pursuant to the *Act*. Furthermore, the evidence before the General Division does not support a finding that the Applicant had a “reasonable assurance of another employment in the immediate future” in accordance with section 29(c)(vi) of the *Act*.

[13] 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

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

Pierre Lafontaine
Member, Appeal Division

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