



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. T. v. Canada Employment Insurance Commission*, 2016 SSTADEI 383

Tribunal File Number: AD-15-277

BETWEEN:

N. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Mark Borer

DATE OF DECISION: July 19, 2016

DECISION

[1] The appeal is dismissed.

INTRODUCTION

[2] Previously, a General Division member dismissed the Appellant's appeal on the issue of voluntary leaving. In a separate decision, the same General Division member also "dismissed with modifications" the Appellant's appeal on the issue of availability.

[3] In due course, the Appellant filed an application for leave to appeal both of these decisions and leave to appeal was granted.

[4] This appeal was decided on the record, and relates solely to the voluntary leaving issue. The appeal on the issue of availability will be dealt with in a separate decision.

THE LAW

[5] According to subsection 58(1) of the *Department of Employment and Social Development Act*, the only grounds of appeal are that:

- (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.

ANALYSIS

[6] This is an unusual appeal.

[7] Initially, the Commission determined that the Appellant did not have just cause for leaving his employment. Upon reconsideration, however, the Commission reversed this decision and agreed with the Appellant that he did have just cause.

[8] Unfortunately, the Appellant did not seem to have fully understood this and appealed against the reconsideration decision.

[9] The General Division member, noting that the Commission was in agreement with the Appellant that he had shown just cause for leaving his employment, dismissed the Appellant's appeal.

[10] The Appellant, no doubt disappointed that his appeal had been dismissed and not realizing what this meant, appealed further.

[11] To be clear, the current decision under appeal by the Appellant **is entirely in the Appellant's favour.**

[12] While I understand that it is confusing that the General Division member dismissed the Appellant's appeal, the result was exactly what the Appellant wanted.

[13] The Commission submits that as the Appellant has been completely successful on the issue of voluntary leaving, there is no further result that could benefit him. The Commission continues to agree with the Appellant's position that he **did** have just cause for leaving his employment.

[14] I therefore propose to dismiss this appeal without further analysis.

[15] In doing so, I stress that this means that **the Appellant has been completely successful** and that the favourable result he received from the Commission stands.

CONCLUSION

[16] For the above reasons, the appeal is dismissed.

Mark Borer
Member, Appeal Division