



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *S. V. v. Canada Employment Insurance Commission*, 2016 SSTADEI 398

Tribunal File Number: AD-16-747

BETWEEN:

S. V.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Pierre Lafontaine

DATE OF DECISION: July 26, 2016

REASONS AND DECISION

DECISION

[1] The appeal is allowed. The case will be returned to the General Division of the Tribunal (Employment Insurance Section) for reconsideration by a new Member.

INTRODUCTION

[2] On May 10, 2016, the General Division determined that the Appellant did not have just cause to leave his employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (“Act”).

[3] The Appellant requested leave to appeal to the Appeal Division on May 30, 2016. Leave to appeal was granted on June 10, 2016.

ISSUE

[4] The Tribunal must decide if the General Division erred when it concluded that the Appellant did not have just cause to leave his employment pursuant to sections 29 and 30 of the *Act*.

THE LAW

[5] Subsection 58(1) of the *Department of Employment and Social Development Act* (*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.

ANALYSIS

[6] The Appellant argues that although he was represented by a 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. He pleads that although the employer was not present at the hearing, the Member acted like the employer's counsel.

[7] It is the Respondent's position that the Appellant has grounds for appeal under subsection 58(1) (a) of the *DESD Act*.

[8] Considering the arguments raised by the Appellant, and the position of the Respondent, and after listening to the hearing before the General Division, the Tribunal agrees that the appeal must be granted under subsection 58 (1) (a) of the *DESD Act*.

CONCLUSION

[9] The appeal is allowed. The case will be returned to the General Division of the Tribunal (Employment Insurance Section) for reconsideration by a new Member.

[10] The Tribunal orders that the decision of the General Division dated May 10, 2016, be removed from the file.

Pierre Lafontaine
Member, Appeal Division