



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *Z. M. v. Canada Employment Insurance Commission*, 2016 SSTADEI 428

Tribunal File Number: AD-16-888

BETWEEN:

**Z. M.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: August 18, 2016

## MOTIFS ET DECISION

### DECISION

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

### INTRODUCTION

[2] On May 29, 2016, the General Division of the Tribunal determined that:

- The Applicant did not have just cause to leave her employment pursuant to sections 29 and 30 of the *Employment Insurance Act (Act)*.

[3] The Applicant is deemed to have requested leave to appeal to the Appeal Division on July 4, 2016, after receiving communication of the decision of the General Division on June 7, 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] 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 this case, the General Division had to decide if the Applicant had just cause to leave her employment

[10] The Applicant, in her application for leave to appeal and in a supplementary correspondence provided upon the request of the Tribunal, states that the General Division erred when it concluded that the Applicant had other reasonable solutions than to leave her employment.

[11] She basically pleads that the General Division did not consider the circumstances of her particular case. The Applicant argues that the decision of the General Division is ill founded since it makes it mandatory for victims of violent sexual assaults to stay in a place or situation where their health and safety is threatened.

[12] She finally pleads that the General Division erred in applying *Bellefleur v. Canada (AG)*, 2008 FCA 13 to her case. She submits that it is a natural and common occurrence of

victims of violent sexual assaults to be guarded in their conversations and that she is no exception.

[13] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of her 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**

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

Pierre Lafontaine  
Member, Appeal Division