



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. S. v. Canada Employment Insurance Commission*, 2016 SSTADEI 498

Tribunal File Number: AD-16-1020

BETWEEN:

N. S.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: October 6, 2016

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On July 20, 2016, the General Division of the Tribunal determined that Applicant did not have just cause to leave her employment pursuant to sections 29 and 30 of the *Employment Insurance Act*.

[3] The Applicant requested leave to appeal to the Appeal Division on August 12, 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] In her application for leave to appeal, the Applicant is basically asking this Tribunal to re-evaluate and reweigh the evidence that was put before 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.

[11] On August 24, 2016, the Tribunal requested in writing that the Applicant explain in details her grounds of appeal in conformity with subsection 58(1) of the *DESD Act* at the latest September 23, 2016. No reply was received from the Applicant.

[12] 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 her request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[13] The Application for leave to appeal is refused.

Pierre Lafontaine
Member, Appeal Division