



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *Canada Employment Insurance Commission v. S. G.*, 2017 SSTADEI 10

Tribunal File Number: AD-17-25

BETWEEN:

**Canada Employment Insurance Commission**

Applicant

and

**S. G.**

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: January 16, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On December 23, 2016, the General Division of the Tribunal determined that the Respondent had just cause to leave her employment under sections 29 and 30 of the *Employment Insurance Act (Act)*.

[3] The Applicant requested leave to appeal to the Appeal Division on January 11, 2017.

### **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 Applicant argues that the General Division erred in fact and law when it found that the Respondent had proven just cause for voluntary leaving her employment. The Applicant submits that the evidence before the General Division rather shows the Respondent had multiple reasonable alternative opened to her. She did not make any effort to explore any of them and preferred to quit.

[10] The Applicant pleads that the General Division erred in law when it ignored requirements set by jurisprudence in order to prove just cause for leaving an employment for medical reasons: the medical evidence doesn't support the Respondent's condition was caused by her workplace and that she had to quit; she did not demonstrate she was willing to collaborate with her employer and did not attempt to find employment prior to leaving. In light of the above, the Applicant submits that the General Division could not reasonably decide that the Respondent left her employment with just cause within the meaning of the *Act*.

[11] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Applicant in support of its request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant disputes the interpretation and application of sections 29 and 30 of the Act by the General Division. 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**

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

Pierre Lafontaine

Member, Appeal Division