



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *C. C. v. Canada Employment Insurance Commission*, 2017 SSTADEI 5

Tribunal File Number: AD-16-1334

BETWEEN:

C. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

St. Joseph's Health Centre

Added Party

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to appeal decision by: Pierre Lafontaine

DATE OF DECISION: January 10, 2017

Canada 

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On October 26, 2016, the Tribunal's General Division found that the Applicant had voluntarily left her employment without just cause under sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] On November 30, 2016, the Applicant filed an application for leave to appeal with the Appeal Division after being notified of the General Division's decision on November 11, 2016.

ISSUE

[4] The Tribunal must determine whether the appeal has a reasonable chance of success.

THE LAW

[5] As stated in subsections 56(1) and 58(3) of the *Department of Employment and Social Development Act*, “[a]n 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 *Department of Employment and Social Development Act* states that “[l]eave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success”.

ANALYSIS

[7] Under subsection 58(1) of the *Department of Employment and Social Development Act*, the following are the only grounds of appeal:

(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] An application for leave to appeal is a preliminary step to a hearing on the merits. It is a first hurdle for the applicant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the application for leave to appeal stage, the applicant does not have to prove their case.

[9] The Tribunal will grant leave to appeal if it is satisfied that any of the above grounds of appeal has a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the Department of Employment and Social Development Act, whether there is a question of law, fact, or jurisdiction to which the response might justify setting aside the decision under review.

[11] In light of the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In her application for leave to appeal, the Applicant submits that she is unsatisfied with the General Division's decision. She finds the decision to be unfair. She argues that no one can work in an environment of prejudice and harassment. She submits that the human resources coordinator had forced her to resign.

[13] She also emphasized that the Respondent's investigation had been botched because several people were not contacted. She argues that she was a permanent employee and that she had accumulated hours. She should therefore be entitled to Employment Insurance.

[14] On December 8, 2016, the Tribunal sent the Applicant a letter requesting details relating to her grounds for appeal. The Applicant responded to the Tribunal's request on January 5, 2017.

[15] In her response to the Tribunal, the Applicant reiterated her version of the events that led to her leaving. She also mentions her personal and financial problems.

[16] It seems clear to the Tribunal, after reviewing the application for leave to appeal, the response to the Tribunal, and the decision of the General Division, that the Applicant wants the Appeal Division to reweigh the evidence that was presented before the General Division.

[17] However, the powers of the Appeal Division are limited. The Appeal Division is not authorized to retry the factual issues, reweigh the evidence, or redo what the General Division did. In other words, an appeal to the Appeal Division is not an appeal in which there is a de novo hearing, that is, a hearing where a party can present his or her evidence again and hope for a favourable decision.

[18] Upon review of the appeal file, the General Division's decision, and the Applicant's arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success. The Applicant has not raised a question relating to jurisdiction, fact, or law, the answer to which could lead to the setting aside of the contested decision.

CONCLUSION

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

Pierre Lafontaine,
Member, Appeal Division