



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. N. v. Canada Employment Insurance Commission*, 2017 SSTADEI 47

Tribunal File Number: AD-17-53

BETWEEN:

B. N.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Pierre Lafontaine

DATE OF DECISION: February 27, 2017

REASONS AND DECISION

DECISION

[1] The appeal is granted and the file returned to the General Division (Employment Insurance Section) for a new hearing.

INTRODUCTION

[2] On December 12, 2016, the General Division of the Tribunal determined that the Appellant left her employment without just cause in accordance with sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Appellant is presumed to have requested leave to appeal to the Appeal Division on January 19, 2017, after receiving the General Division decision on December 22, 2016. Permission to appeal was granted on February 7, 2017.

ISSUE

[4] The Tribunal must decide if the General Division erred when it concluded that the Appellant left her employment without just cause in accordance with sections 29 and 30 of 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 submits that the General Division erred when it did not give consideration to her position that she had reasonable assurance of another employment in the immediate future. She submits that the General Division erred by not applying subsection 29(c)(vi) of the Act to her case.

[7] The Respondent submits that one of the relevant factors to consider in this case was whether the Appellant's situation met the requirements of subsection 29(c)(vi) of the Act. In light of this, it is the Respondent's position that the General Division erred in dismissing the appeal without clearly analyzing this requirement. Consequently, the General Division based its decision on an erroneous finding of fact without having regard to all the circumstances.

[8] Given the foregoing, the Respondent submits that the Appellant has grounds for appeal under section 58(1) of the DESD Act and therefore respectfully requests that the Appeal Division, pursuant to section 59(1) of the DESD Act, return the case to the General Division for a redetermination on the issue of whether the Appellant voluntarily left her employment without just cause within the meaning of the Act.

[9] In reviewing the General Division's decision, the Tribunal agrees with the parties and finds that the General Division did not address the argument of the Appellant that she had the reasonable assurance of another employment in the immediate future.

[10] The Tribunal finds that the matter should be sent back to the General Division of the Tribunal (Employment Insurance Section) for a new hearing.

CONCLUSION

[11] The appeal is granted and the file is returned to the General Division of the Tribunal (Employment Insurance Section) for a new hearing.

[12] The Tribunal orders that the decision of the General Division dated December 12, 2016, be withdrawn from the file.

Pierre Lafontaine
Member, Appeal Division