



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *S. U. v. Canada Employment Insurance Commission*, 2017 SSTADEI 143

Tribunal File Number: AD-17-125

BETWEEN:

**S. U.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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

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DECISION BY: Pierre Lafontaine

HEARD ON: April 4, 2017

DATE OF DECISION: April 5, 2017

## **REASONS AND DECISION**

### **DECISION**

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

### **INTRODUCTION**

[2] On January 9, 2017, the General Division determined that the Appellant did not have just cause to leave her employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Appellant requested leave to appeal to the Appeal Division on February 8, 2017.

### **ISSUE**

[4] The Tribunal must decide whether the General Division erred when it concluded that the Appellant did not have just cause to leave her employment pursuant to sections 29 and 30 of the Act.

### **THE LAW**

[5] Subsection 58(1) of the *Department of Employment and Social Development 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 argues that she did not receive a notice prior to the hearing and that is why she was not present before the General Division.

[7] The Tribunal notices from the General Division file that the delivery was not signed by the Appellant, but by a third party. The Appellant explained before the Tribunal that the delivery was signed by the concierge of the building, but that the package was never given to her prior to the hearing. She found out about the package only after receiving the General Division's decision.

[8] In the interest of fairness and a possible breach of natural justice, namely the right to be heard, the Respondent does not object that the General Division decision be set aside and that the Appellant's file be returned to the General Division so the case can be heard anew and that she can be given the opportunity to participate in a new hearing.

[9] Considering the arguments raised by the Appellant, and the position of the Respondent, the Tribunal agrees that the appeal must be allowed.

## **CONCLUSION**

[10] The appeal is allowed. The case will be returned to the General Division of the Tribunal (Employment Insurance Section) for reconsideration by a new member.

[11] The Tribunal orders that the General Division decision dated January 9, 2017, be removed from the file.

Pierre Lafontaine  
Member, Appeal division