



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. C. v. Canada Employment Insurance Commission*, 2017 SSTADEI 161

Tribunal File Number: AD-16-1400

BETWEEN:

G. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Mark Borer

Date of Decision: April 21, 2017

REASONS AND DECISION

[1] Previously, a member of the General Division dismissed the Applicant's appeal. In due course, the Applicant filed an application requesting leave to appeal to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development Act* (DESDA) states that the only grounds of appeal are that:

- (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.

[3] The DESDA also states that leave to appeal is to be refused if the appeal has "no reasonable chance of success".

[4] This case involves whether or not the Applicant had just cause to voluntarily leave his employment.

[5] In his initial application, the Applicant alleged that the General Division member erred in fact. The Applicant added that "I did attend school and I have the paperwork to prove it". No other submissions were made.

[6] As the above fact was not disputed, I asked Tribunal staff to contact the Applicant by letter to seek further details as to the nature of his appeal. Specifically, the Tribunal letter asked that the Applicant provide full and detailed grounds of appeal as required by the DESDA, and provided examples of what constitutes grounds of appeal. The Tribunal letter also noted that if this was not done, the application could be refused without further notice.

[7] The Applicant responded by repeating his earlier submissions, and included documents to support his statement that he was attending a course of instruction.

[8] Although the Applicant has alleged an error of fact was made, he has failed to explain what this error was or how it affected the member's conclusions. It appears to me that the Applicant is actually asking that I rehear his case and come to a decision more favourable than that reached by the General Division member.

[9] This I cannot do.

[10] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the DESDA has been made by the General Division and, if so, to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[11] In order to have a reasonable chance of success, the Applicant must explain in some detail how, in his view, at least one reviewable error set out in the DESDA has been made. Having failed to do so, even after having been prompted to do so by the Tribunal, I find that this application for leave to appeal does not have a reasonable chance of success and must be refused.

Mark Borer

Member, Appeal Division