



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. S. v. Canada Employment Insurance Commission*, 2017 SSTADEI 218

Tribunal File Number: AD-17-407

BETWEEN:

A. S.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

A.M. Fredericks Underwriting Ltd

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: May 31, 2017

REASONS AND DECISION

DECISION

[1] The Social Security Tribunal of Canada (Tribunal) grants leave to appeal to the Tribunal's Appeal Division.

INTRODUCTION

[2] On April 26, 2017, the Tribunal's General Division determined that the Applicant had voluntarily left her employment without just cause pursuant to sections 28 and 29 of the *Employment Insurance Act*.

[3] The Applicant requested leave to appeal to the Appeal Division on May 19, 2017.

ISSUE

[4] The Tribunal must decide whether 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* (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 "[l]eave 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] As regards to the application for leave to appeal, before leave can be granted, 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.

[9] The Applicant argues that the General Division failed to observe a principle of natural justice or procedural fairness. She submits that, by disposing of the issues by way of teleconference, the General Division had failed to afford her an adequate opportunity to present her case. She feels that her right to be heard was greatly hindered. She states that English is not her first language and that she had difficulty grasping the questions and information presented to her. Had an in person hearing been scheduled, she would have found it easier to understand the process. She often felt rushed, hurried and confused throughout the hearing. Determining just cause requires a careful assessment of the testimony and credibility of the witness, and she feels that such an assessment was not carried out in an adequate manner due to the forum in which the hearing was held.

[10] After considering the Applicant's arguments in support of her request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out reasons that fall into the above-enumerated grounds of appeal and that could possibly lead to the reversal of the disputed decision.

CONCLUSION

[11] The Tribunal grants leave to appeal to the Tribunal's Appeal Division.

Pierre Lafontaine
Member, Appeal Division