



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *B. B. v. Canada Employment Insurance Commission*, 2017 SSTADEI 241

Tribunal File Number: AD-17-377

BETWEEN:

B. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: June 19, 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 5, 2017, the Tribunal's General Division determined that the Applicant had left his employment without just cause in accordance with sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Applicant requested leave to appeal to the Appeal Division on May 8, 2017, after having received the General Division decision on May 3, 2017.

ISSUE

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

APPLICABLE 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 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 submits that, in his view, no Employment Insurance (EI) contributions should have been made (including that of matching contributions made by his employer) on earnings that weren't insurable earnings. He submits, therefore, that most of his EI contributions for the years 2014 and 2015 should be refunded to him and to his employer.

[10] It does not fall under the Tribunal's jurisdiction to decide the issue that the Applicant has raised in his application for leave to appeal regarding a possible reimbursement of his EI premiums.

[11] However, the Applicant argued before the General Division that he had "just cause" to leave his employment because of the undue pressure his employer had placed on him to either retire or suffer the financial consequences. In view of the recent Federal Court of Appeal decision in *Canada (Attorney General) v. Hong*, 2017 FCA 46, the Tribunal finds that the appeal has a reasonable chance of success.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division