



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. W. v. Canada Employment Insurance Commission*, 2017 SSTADEI 279

Tribunal File Number: AD-17-335

BETWEEN:

P. W.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: July 25, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On March 3, 2017, the Tribunal's General Division determined that the Applicant did not have just cause to leave his employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Applicant requested leave to appeal to the Tribunal's Appeal Division on April 20, 2017, after receiving the General Division decision on April 20, 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] 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] In this case, the General Division had to decide whether the Applicant had just cause to leave his employment

[10] In his application for leave to appeal, the Applicant states that he was discriminated against in the workplace. He submits that a review of the recording will prove his eligibility for benefits.

[11] On April 24, 2017, a letter was sent to the Applicant to explain why leave to appeal must be granted by the Appeal Division. He reiterated that he had been harassed by his employer.

[12] The General Division found that the Applicant had not provided any evidence of harassment that would exempt him from the general rule that insured individuals who are not deliberately unemployed are entitled to benefits, pursuant to subsection 29(c)(i) of the Act. The General Division concluded that the Applicant had other reasonable alternatives to quitting his job after only three weeks: he could have returned to the job when the employer reached out to try and resolve his concerns, or he could have continued working for the employer while he searched for more suitable employment.

[13] Based on the evidence before the General Division, the Tribunal is not convinced that the Applicant was harassed or discriminated against by his employer pursuant to section 29(c)(i) of the Act, particularly considering the short length of the employment.

[14] The Applicant's working conditions were not so intolerable as to leave him no option but to resign immediately. The Applicant could have continued working for the employer while he searched for more suitable employment, especially given that he was on a three- month guaranteed income.

[15] Upon consideration of the appeal docket, the General Division decision and the Applicant's submissions in support of his application for leave to appeal, the Tribunal is not satisfied that the appeal has a reasonable chance of success.

CONCLUSION

[16] The application for leave to appeal is refused.

Pierre Lafontaine
Member, Appeal Division