



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *Y. F. v. Canada Employment Insurance Commission*, 2017 SSTADEI 316

Tribunal File Number: AD-17-545

BETWEEN:

Y. F.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: September 5, 2017

Canada

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 June 29, 2017, the Tribunal's General Division found that the Applicant had voluntarily left his job without just cause within the meaning of sections 29 and 30 of the Employment Insurance Act (Act).

[3] The Applicant filed an application for leave to appeal to the Appeal Division on July 31, 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 (the 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] According to subsection 58(1) of the DESD Act, the following are the only grounds of appeal:

- 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] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial and lower hurdle for the applicant to meet than the one that must be met on the hearing of the appeal on the merits. At the application for leave to appeal stage, the applicant does not have to prove his or her case.

[9] The Tribunal will grant leave to appeal if it is satisfied that at least one of the above-mentioned grounds of appeal gives the appeal a reasonable chance of success.

[10] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the DESD Act, whether there is a question of law, fact, or jurisdiction, the answer to which might justify setting aside the decision under review.

[11] Given the foregoing, does the Applicant's appeal have a reasonable chance of success?

[12] In support of his application for leave to appeal, the Applicant submits that the General Division failed to observe a principle of natural justice, erred in law in making its decision and 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.

[13] He argues that there is an agreement between the Commission de la construction du Québec (CCQ) [Quebec's construction commission], the centre local d'emploi du Québec (CLE) [Quebec's local employment centre] and the federal government, so that construction workers can receive training while they are receiving Employment Insurance benefits. Information about the training is received by the CCQ employee and then submitted by that employee to their CLE, which then sends it to Service Canada to show that the course is properly managed. He argues that the General Division erred in considering that the Applicant was not authorized to take the course.

[14] Upon review of the appeal file, the General Division's decision, and the arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has raised a question regarding the General Division's interpretation and application of sections 29 and 30 of the Act whose response might justify setting aside the decision under review.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division