



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *U. W. v. Canada Employment Insurance Commission*, 2017 SSTADEI 343

Tribunal File Number: AD-17-419

BETWEEN:

**U. W.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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Leave to Appeal Decision by: Mark Borer

Date of Decision: September 20, 2017

## **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 leave his employment.

[5] In his initial application, the Applicant repeated much of the evidence that he had previously given to the General Division member and explained why he disagreed with the member's decision, but did not set out a ground of appeal with a reasonable chance of success. Instead, he asked (at AD 1 - 5) that I "reconsider [his] situation and allow [his] appeal" because this would greatly help him at a difficult time in his life.

[6] Because of this, and to ensure that the Applicant had every opportunity to make his case in full, I asked Tribunal staff to contact the Applicant by letter to seek further details. Specifically, the Tribunal letter asked that the Applicant provide full and detailed grounds of appeal as required by the DESDA, of which the letter provided concrete examples. The

Tribunal letter also noted that if this was not done, the application could be refused without further notice.

[7] The Applicant responded by again repeating a number of allegations against his employer, and requested that I reconsider the General Division's decision.

[8] The Commission's initial determination was that the Applicant had not shown just cause to leave his employment because he had not shown that he had no reasonable alternative to doing so, given all of the circumstances. At the General Division hearing, the Applicant argued that this was wrong and that he had no choice but to leave.

[9] In his decision, the General Division member considered the law and the facts, including the binding jurisprudence and the Applicant's testimony, and ruled against him.

[10] It is clear to me that the Applicant disagrees with this conclusion. However, it is equally clear that this application is a request that I rehear his case and come to a conclusion more favourable to him.

[11] This I cannot do.

[12] The role of the Appeal Division is to determine if a reviewable error set out in subsection 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 rehear the case *de novo*.

[13] In order to have a reasonable chance of success an applicant must explain in some detail how, in their view, at least one reviewable error set out in the DESDA has been made. Since the Applicant has failed to do so, even after having been prompted to do so by the Tribunal, I have no choice but to 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