



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. G. v. Canada Employment Insurance Commission*, 2017 SSTADEI 324

Tribunal File Number: AD-17-602

BETWEEN:

G. G.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: September 26, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On July 25, 2017, the General Division of the Tribunal determined that the Applicant had lost his employment due to his own misconduct pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Applicant requested leave to appeal to the Appeal Division on August 31, 2017, after receiving the General Division decision 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* (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] The Applicant submits that the General Division ignored the evidence he presented at the hearing, at which he had clearly stated that he was not aware of the zero tolerance policy in the workplace. He argues that the fact that he signed the policy does not mean that he was aware of what he was signing. He further submits that there were no discussions with his employer prior to his dismissal regarding a zero tolerance policy. He disputes the interpretation and application of sections 29 and 30 of the Act by the General Division.

[10] After reviewing the appeal docket and the General Division decision, as well as considering the arguments of the Applicant in support of his 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 which could possibly lead to the reversal of the disputed decision.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division