



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. A. v. Canada Employment Insurance Commission*, 2017 SSTADEI 368

Tribunal File Number: AD-17-385

BETWEEN:

N. A.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: October 23, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On April 28, 2017, the Tribunal's General Division determined that the Applicant's benefit period could not be extended under section 10 of the *Employment Insurance Act* (Act) so that the Applicant could reactivate her claim for benefits.

[3] The Applicant requested leave to appeal to the Appeal Division on May 12, 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 "leave 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] When considering the application for leave to appeal, before leave to appeal can be granted, the Tribunal must 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 General Division had to decide whether the Applicant's benefit period could be extended under section 10 of the Act so that the Applicant could reactivate her claim for benefits.

[10] In her application for leave to appeal, the Applicant states that her benefit period started when she began receiving benefits in June 2014. She argues that this date changes the duration of her benefit period. She submits that an extension of up to 104 weeks brings her up to June 30, 2016. She further argues that the Respondent should be accountable and liable for misleading her since it did not abide by the terms and conditions of the Employment Insurance contract.

[11] The General Division found that the Applicant had applied for regular Employment Insurance benefits on September 18, 2013, and that her benefits were approved, with a benefit period commencing on September 15, 2013. The Applicant had received a severance package from her employer when she was released from her position in September, 2013. As a result, she did not start to receive Employment Insurance benefits until the first week of June 2014.

[12] The Applicant received 18 weeks of benefits during her benefit period, up to August 9, 2014. The Applicant then left the country on August 15, 2014, and did not return until July 27, 2016.

[13] The Applicant contacted Service Canada while she was outside the country, but she was never informed about the one-year time limit for her claim. She said that she understood from those discussions that her Employment Insurance claim was simply being suspended while she was out of Canada.

[14] Contrary to the position of the Applicant, a benefit period begins the Sunday of the week in which the interruption of earnings occurs, and the Sunday of the week in which the initial claim for benefits is made, as per subsection 10(1) of the Act. The Applicant had applied for regular Employment Insurance benefits on September 18, 2013, and her benefits were approved, with a benefit period commencing on September 15, 2013.

[15] Subsection 10(8) of the Act further stipulates that a benefit period will terminate when the duration of the benefit period ends or when the maximum entitlement has been paid, whichever occurs first.

[16] Subsection 10(2) of the Act stipulates the length of a benefit period to be 52 weeks. Exceptionally, those 52 weeks can be extended by up to another 52 weeks for a maximum benefit period of 104 weeks, pursuant to subsection 10(14) of the Act.

[17] Even if the Tribunal were to extend the Applicant's benefit period to the maximum of 104 weeks permitted by law, therefore up to September 15, 2015, the benefit period would still be expired since the Applicant only returned to Canada in July 2016.

[18] As concluded by the General Division, the Tribunal is bound to apply the provisions of the Act and cannot offer relief to the Applicant even if there were errors made on the part of the Respondent.

[19] For the above-mentioned reasons and after reviewing the appeal docket, the General Division's decision and the Applicant's arguments in support of her request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[20] The Tribunal refuses leave to appeal to the Tribunal's Appeal Division.

Pierre Lafontaine

Member, Appeal Division