



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Dr. Douglas A. Caine Dentistry Professional Corp. v. Canada Employment Insurance Commission*, 2017 SSTA DEI 381

Tribunal File Number: AD-17-659

BETWEEN:

Dr. Douglas A. Caine Dentistry Professional Corp.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

C. O.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: November 2, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On August 30, 2017, the General Division of the Tribunal determined that the claimant (Added Party) had just cause to leave her employment pursuant to sections 29 and 30 of the *Employment Insurance Act*.

[3] The Applicant requested leave to appeal to the Appeal Division on September 29, 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 to appeal 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 he was unable to connect to the hearing, held by teleconference on July 27, 2017. He called on the day of the hearing and left a message for the General Division officer, which the officer acknowledged only upon returning from vacation. He also argues that the hearing should not have been held by teleconference, but should have instead been held in person, as he had requested, since he had witnesses in support of his position. The Applicant is essentially raising a question of natural justice.

[10] After reviewing the appeal file and the General Division decision, and after considering the Applicant's grounds of 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 and that could possibly lead to the reversal of the disputed decision.

CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division