



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *N. C. v. Canada Employment Insurance Commission*, 2017 SSTADEI 419

Tribunal File Number: AD-17-746

BETWEEN:

N. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: December 4, 2017

REASONS AND DECISION

DECISION

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

INTRODUCTION

[2] On October 2, 2017, the General Division of the Tribunal determined that the Applicant did not have just cause for voluntarily leaving his employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Applicant is presumed to have requested leave to appeal to the Appeal Division on October 24, 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] 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] In support of his application for leave to appeal, the Applicant argues that the General Division wrongfully concluded that he had voluntarily left his employment. He states that he did only what his employer had told him to do. He had planned to go on vacation, and he was certain that his leave would be approved by his employer as his co-workers had assured him that it would. He then followed the advice of his employer to quit with the assurance that he could return to work anytime.

[10] The undisputed evidence before the General Division is that the Applicant had planned his three-month vacation before the employer had authorized the leave of absence. Although his request for a three-month leave had not been approved, the Applicant decided to go on his three-month vacation anyway.

[11] As stated by the General Division, and even though the Applicant disagrees, the evidence supports that he initiated the separation of the employee/employer relationship when he left on an unapproved vacation leave. Had he not left for his vacation, he would still have his job. A reasonable solution would have been to take a one-month leave, as approved by his employer, and return to work after the end of his authorized leave.

[12] A consistent jurisprudence has long established that leaving one's employment for personal reasons not related to employment does not constitute just cause pursuant to the Act.

[13] For the above-mentioned reasons and upon review of the appeal docket and the General Division decision, and after considering the arguments of the Applicant in support of his request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[14] The Tribunal refuses leave to appeal to the Appeal Division of the Social Security Tribunal.

Pierre Lafontaine
Member, Appeal Division