



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Dr. D. C. Dentistry Professional Corp. v. Canada Employment Insurance Commission*,
2017 SSTADEI 442

Tribunal File Number: AD-17-659

BETWEEN:

Dr. D. C. Dentistry Professional Corp.

Appellant

and

Canada Employment Insurance Commission

Respondent

and

C. O.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Pierre Lafontaine

DATE OF DECISION: December 19, 2017

REASONS AND DECISION

DECISION

[1] The appeal is allowed and the file is returned to the Employment Insurance Section of the General Division of the Social Security Tribunal of Canada (Tribunal) for a new hearing.

INTRODUCTION

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

[3] The Appellant requested leave to appeal to the Appeal Division on September 29, 2017. Leave to appeal was granted on November 2, 2017.

ISSUE

[4] The Tribunal must decide whether the General Division erred when it concluded that the Claimant had just cause to leave her employment pursuant to sections 29 and 30 of the Act.

THE LAW

[5] Subsection 58(1) of the *Department of Employment and Social Development 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.

ANALYSIS

[6] The Appellant submits that he was unable to connect to the hearing, held by teleconference on July 27, 2017. He argues that he called on the day of the hearing and waited for the “moderator” to join the call, and that after waiting an extensive period of time, he gave up. He then called and left a message with the General Division intake clerk to clarify what had happened, but the clerk acknowledged his message only upon returning from her vacation.

[7] The Tribunal notices from the file that the General Division intake clerk did acknowledge that the Appellant had called and left her a message during her vacation to advise her that he was unable to connect to the General Division hearing.

[8] In the interest of fairness and a possible breach of natural justice, namely the right to be heard, the Respondent does not object that the General Division decision be set aside and that the Appellant’s file be returned to the General Division so the case can be heard anew and that he can be given the opportunity to participate in a new hearing.

[9] The Claimant did not file any submissions, although she was offered the opportunity to do so by the Tribunal.

[10] After review of the file, and considering the arguments raised by the Appellant, and the position of the Respondent, the Tribunal agrees that the appeal must be allowed.

CONCLUSION

[11] The appeal is allowed. The case will be returned to the Tribunal’s General Division (Employment Insurance Section) for a new hearing.

[12] The Tribunal orders that the General Division decision dated August 30, 2017, be removed from the file.

Pierre Lafontaine
Member, Appeal Division