



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. D. v. Canada Employment Insurance Commission*, 2017 SSTADEI 439

Tribunal File Number: AD-17-919

BETWEEN:

C. D.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: December 15, 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 25, 2017, the Tribunal's General Division determined that the Applicant did not have just cause for voluntarily leaving her employment pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act).

[3] The Applicant requested leave to appeal to the Appeal Division on December 4, 2017, after receiving the General Division decision on November 7, 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] In support of her application for leave to appeal, the Applicant argues that 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.

[10] The Applicant states that her husband relocated to X, their new home. Her husband commutes to work from their home and stays with his sister several nights a week to be closer to his work. They had a large mortgage on their X home and it required major renovations. Therefore, they had to sell one home. They decided to keep the one with no mortgage that was transferred to them by her mother-in-law.

[11] The evidence before the General Division does not support that the Applicant needed to provide care to her mother-in-law pursuant to subparagraph 29(c)(v) of the Act.

[12] While it was certainly legitimate for the Applicant to move to a new home with no mortgage in order to improve her life financially, consistent jurisprudence has long established that leaving one's employment because of problems related to accommodation and other personal reasons not related to employment does not constitute just cause pursuant to the Act.

[13] For the above-mentioned reasons and after reviewing the appeal docket and the General Division's decision, and considering the Applicant's arguments in support of her application 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.

Pierre Lafontaine
Member, Appeal Division