



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. H. v. Canada Employment Insurance Commission*, 2018 SST 254

Tribunal File Number: AD-18-125

BETWEEN:

C. H.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: March 21, 2018

DECISION AND REASONS

DECISION

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

INTRODUCTION

[2] On January 24, 2018, the Tribunal's General Division determined that the Applicant did not have just cause for leaving his employment and was therefore disqualified from any benefits pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act). It also determined that, pursuant to sections 18 and 50 of the Act and sections 9.001 and 9.002 of the *Employment Insurance Regulations* (Regulations), the Applicant had failed to prove his availability for work.

[3] The Applicant requested leave to appeal to the Appeal Division on February 23, 2018.

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] 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, before leave can be granted.

[9] In his application for leave to appeal, the Applicant submits that, in its decision, the General Division disregarded the medical evidence supporting his position that he had to be off work because of work-related stress and his employer's refusal to grant him sick leave. He therefore had no choice but to leave his employment. The Applicant further submits that he was ready, willing and able to work. He essentially pleads that the General Division erred in law and that the decision was rendered without regard for the material before it.

[10] After reviewing the docket of appeal and the General Division decision and considering the Applicant's arguments in support of his request for leave to appeal, the Tribunal finds that the appeal has a reasonable chance of success. The Applicant has set out reasons that fall within the above-enumerated grounds of appeal 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