



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *D. M. v. Canada Employment Insurance Commission*, 2018 SST 419

Tribunal File Number: AD-18-149

BETWEEN:

**D. M.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Pierre Lafontaine

DATE OF DECISION: April 16, 2018

## DECISION AND REASONS

### DECISION

[1] The appeal is allowed and the file is returned to the Tribunal's General Division (Employment Insurance Section) for a new hearing on all issues before a different member.

### OVERVIEW

[2] The Appellant, D. M. (Claimant), made an initial claim for Employment Insurance benefits. The Respondent, the Canada Employment Insurance Commission (Commission), disqualified the Claimant from receiving benefits after finding that she had voluntarily left her employment without just cause. The Claimant requested a reconsideration of this decision. She stated that her job responsibilities were excessive and that she needed to do overtime to complete her regular duties. She was not paid for overtime by the employer. Her relationship with her manager then became antagonistic, to the point that he hardly acknowledged her or spoke to her. The Commission maintained its initial decision.

[3] The Claimant appealed the Commission's decision to the General Division. The General Division concluded that the Claimant had not demonstrated that she had no reasonable alternative to leaving her employment at the time she did, and found that she had failed to demonstrate just cause for leaving her employment under ss. 29 and 30 of the *Employment Insurance Act* (Act).

[4] The Claimant was granted leave to appeal to the Appeal Division.

[5] The Tribunal allows the appeal and returns the file to the General Division (Employment Insurance Section) for a new hearing on all issues before a different member.

## ISSUES

- [6] Did the General Division consider all the issues before it?
- [7] Did the General Division ignore the evidence before it, particularly the contradictions in the employer's version of events?

## ANALYSIS

[8] The Claimant submits that pursuant to ss. 58(1)(b) and (c) of the *Department of Employment and Social Development Act* (DESDA), the General Division made an error in law and ignored material before it in dismissing her appeal. She states that the General Division erred in law in its interpretation of ss. 29(c)(vii), (viii), (ix), and (x) of the Act. She also submits that the General Division ignored the evidence before it, particularly the contradictions in the employer's version of events.

[9] The Commission is of the position that it was incumbent upon the General Division to consider the relevant factor of whether the Claimant's situation met the requirements of s. 29(c)(ix) of the Act, "significant changes in work duties." The Commission submits that the evidence before the General Division shows that there were significant changes in the Claimant's work duties after she had accepted the full-time position with her employer.

[10] The Commission also submits that it is unclear whether the General Division was aware of the discrepancy in the employer's evidence because there is no reference to it in the decision.

[11] It is the Commission's position that the Claimant has grounds for appeal under ss. 58(1)(b) and (c) of the DESDA.

### **Issue 1: Did the General Division consider all the issues before it?**

[12] It is well-established case law that the General Division must rule and provide a justification on each issue before it.

[13] The Tribunal finds that the General Division erred in its decision by not considering s. 29(c)(ix) of the Act, "significant changes in work duties."

**Issue 2: Did the General Division ignore the evidence before it, particularly the contradictions in the employer's version of events?**

[14] The Tribunal finds that the General Division ignored the evidence before it, particularly the contradictions in the employer's version of events. These contradictions are further detailed in the Claimant's submissions in support of her appeal.

[15] Notably, the evidence before the General Division shows that the employer initially stated that it did not know why the Claimant had quit her job. However, the employer later stated that it did have discussions with the Claimant on her issues with the workload, which she considered excessive, and the fact that she needed to do overtime to complete her regular duties. The employer also initially stated that the workload was manageable and that it did not require overtime. However, the employer later stated that when the Claimant was hired full time, she took on the tasks of other people. The employer had also eventually tried to hire staff to help the Claimant.

[16] The Tribunal finds that the General Division should have addressed the contradictions in the employer's evidence in its decision before concluding that the Claimant could have accepted the employer's proposal to stop working overtime as an alternative to leaving her job.

**CONCLUSION**

[17] After reviewing the appeal docket, the General Division decision, and the parties' arguments, the Tribunal allows the appeal. The matter will be returned to the Tribunal's General Division (Employment Insurance Section) for a new hearing on all issues before a different member.

[18] The Tribunal orders that the General Division decision dated January 24, 2018, be removed from the file.

Pierre Lafontaine  
Member, Appeal Division

METHOD OF PROCEEDING:	On the record
PARTIES:	D. M., Appellant  Angela L. Brown, Representative of the Appellant  Suzanne Prud'homme, Canada Employment Insurance Commission,  Respondent