



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *C. R. v. Canada Employment Insurance Commission and Office des Producteurs de Bois de la Gatineau*, 2018 SST 501

Tribunal File Number: AD-18-66

BETWEEN:

C. R.

Applicant

and

Canada Employment Insurance Commission

Respondent

and

Office des Producteurs de Bois de la Gatineau

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: May 7, 2018

DECISION AND REASONS

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Decision.

OVERVIEW

[2] The Applicant, C. R. (Claimant), applied for regular benefits. He stated that he left his employment because of conflict with his boss. The Respondent, the Canada Employment Insurance Commission (Commission), found that the Claimant's decision to voluntarily leave his employment was the only reasonable solution in the circumstances. The employer requested reconsideration of this decision. In the reconsideration decision, the Commission rescinded its initial decision and found that the Claimant had left his employment without just cause. The Claimant was therefore barred from receiving benefits. The Claimant appealed the reconsideration decision to the General Division.

[3] The General Division found that the Claimant had voluntarily left his employment and that this was not the only reasonable solution. Based on the evidence, the General Division could not find that there was a relationship of conflict with his boss under s. 29(c)(x) of the *Employment Insurance Act* or that the working conditions were dangerous to the Claimant's health. It found that the Claimant had reasonable alternatives to leaving his employment.

[4] The Claimant now seeks leave from the Tribunal to appeal the General Division decision.

[5] In support of his application for leave to appeal, the Claimant essentially repeats his version of the events at hand and questions the General Division's conclusions, which he finds unbelievable and lacking in objectivity.

[6] On April 3, 2018, the Tribunal wrote to the Claimant and requested detailed grounds of appeal in support of his application for leave to appeal, in accordance with s. 58(1) of the *Department of Employment and Social Development Act* (DESD Act). It

told him that it was insufficient to simply repeat his testimony before the General Division. The Claimant did not respond to the Tribunal within the allotted period of time.

[7] The Tribunal must decide whether there is an arguable case that the General Division committed a reviewable error that may give the appeal a reasonable chance of success.

[8] The Tribunal refuses leave to appeal because none of the Claimant's grounds of appeal have a reasonable chance of success on appeal.

ISSUE

[9] In his grounds of appeal, does the Claimant address a reviewable error committed by the General Division that might give the appeal a reasonable chance of success?

ANALYSIS

[10] Subsection 58(1) of the DESD Act sets out the only grounds of appeal for an Appeal Division decision. These reviewable errors are the following: the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction; erred in law in making its decision, whether or not the error appears on the face of the record; or 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.

[11] A leave to appeal proceeding is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove his case; he must instead prove that his appeal has a reasonable chance of success. In other words, he must establish that there is an arguable case that there is a reviewable error on the basis of which the appeal has a reasonable chance of success.

[12] The Tribunal will grant leave to appeal if it is satisfied that at least one of the Claimant's stated grounds of appeal has a reasonable chance of success.

[13] This means that the Tribunal must, in accordance with s. 58(1) of the DESD Act, be in a position to determine whether there is a question of natural justice, jurisdiction, law, or fact that may lead to the setting aside of the decision under review.

ISSUE: In his grounds for appeal, does the Claimant address a reviewable error committed by the General Division that might give the appeal a reasonable chance of success?

[14] In support of his application for leave to appeal, the Claimant disagrees with the General Division's conclusions. He essentially repeats his version of the events, which he already submitted to the General Division. Unfortunately, an appeal to the Appeal Division is not an appeal in which there is a new hearing where a party can present his or her evidence again and hope for a favourable decision.

[15] The Tribunal finds that, despite the Tribunal's specific request, the Claimant does not raise any questions of fact, law, or jurisdiction that might lead to the setting aside of the decision under review.

[16] Upon review of the appeal file, the General Division decision, and the arguments in support of the application for leave to appeal, the Tribunal has no choice but to find that the appeal has no reasonable chance of success.

CONCLUSION

[17] The Tribunal refuses leave to appeal to the Appeal Division.

Pierre Lafontaine
Member, Appeal Division

REPRESENTATIVE:	C. R., unrepresented
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