



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *A. G. v. Canada Employment Insurance Commission*, 2018 SST 567

Tribunal File Number: AD-18-228

BETWEEN:

**A. G.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

and

**X**

Added Party

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

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Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: May 24, 2018

## **DECISION AND REASONS**

### **DECISION**

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

### **OVERVIEW**

[2] The Applicant, A. G. (Claimant), filed an application for regular benefits. The Claimant refused a position offered by his employer on two occasions, so his employer concluded that he had left his employment voluntarily. The Canada Employment Insurance Commission (Commission) determined that the Claimant's decision to voluntarily leave his employment was not the only reasonable alternative in his situation. The Commission maintained its initial decision on reconsideration, and the Claimant appealed the reconsideration decision to the Tribunal's General Division.

[3] Based on the evidence before it, the General Division concluded that the Claimant had voluntarily left his employment and that it was not the only reasonable alternative. In the General Division's view, the Claimant could have accepted the position and confirmed his concerns about his new tasks.

[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 has in essence repeated his version of events and questioned the General Division's conclusions.

[6] On April 11, 2018, the Tribunal asked the Claimant in writing to provide his detailed grounds of appeal in support of the application for leave to appeal under subsection 58(1) of the *Department of Employment and Social Development Act* (DESDA). In his response to the Tribunal, the Claimant repeated his version of events.

[7] The Tribunal must decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal might have a reasonable chance of success.

[8] The Tribunal refuses leave to appeal because the Claimant has not raised a ground of appeal based on which the appeal has a reasonable chance of success.

### **ISSUE**

[9] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error committed by the General Division?

### **ANALYSIS**

[10] Subsection 58(1) of the DESDA specifies the only grounds of appeal of a General Division decision. These reviewable errors are that 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] An application for leave to appeal 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 establish that the appeal has a reasonable chance of success. In other words, the Claimant must show that there is arguably some reviewable error based on which the appeal might succeed.

[12] The Tribunal will grant leave to appeal if it is satisfied that at least one of the above-mentioned grounds of appeal has a reasonable chance of success.

[13] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the DESDA, whether there is an issue of natural justice, jurisdiction, law, or fact that may justify setting aside the decision under review.

**Issue: Does the Claimant's appeal have a reasonable chance of success based on a reviewable error committed by the General Division?**

[14] Based on the evidence before it, the General Division found that the Claimant had voluntarily left his employment and that leaving was not the only reasonable alternative. The General Division found that the Claimant could have accepted the position offered and confirmed his concerns about his new tasks before leaving his employment.

[15] The Claimant disagrees with the General Division's conclusions. In essence, he repeated his version of events, which had already been submitted to the General Division for assessment.

[16] Unfortunately, an appeal to the Appeal Division is not an appeal in which a new hearing is held and a party can present their evidence again, hoping for a favourable decision.

[17] The Tribunal finds that, despite the Tribunal's specific request, the Claimant has not raised any issues of law, fact or jurisdiction that might lead to the setting aside of the decision under review.

[18] After reviewing the appeal file, the General Division's 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**

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

Pierre Lafontaine  
Member, Appeal Division

REPRESENTATIVE:	A. G., self-represented
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