



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *L. G. v. Canada Employment Insurance Commission*, 2018 SST 793

Tribunal File Number: AD-18-398

BETWEEN:

L. G.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: August 9, 2018

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] The Applicant, L. G. (Claimant), made an initial claim for Employment Insurance benefits. She stated that she worked for X and for X. The Respondent, the Canada Employment Insurance Commission (Commission), established a benefit period. The Claimant then received Employment Insurance benefits.

[3] The Commission then conducted an investigation into the insurability of the employment with X. In February 2015, the Canada Revenue Agency (CRA) determined that the Claimant did not have a work contract with X. The Claimant submitted a notice of appeal to the CRA regarding the insurability of her employment with X, but the CRA found that the employment was not insurable. The Commission notified the Claimant that the claim for benefits would be re-examined because it believed that the information that the Claimant had provided was false. It cancelled the benefit period and established an overpayment. The Commission also issued a warning to the Claimant.

[4] The Claimant asked the Commission to reconsider the decision. The Claimant submits that she was not responsible for the situation because she followed her father's advice. The Commission changed its decision regarding the claim. The Commission found that the Claimant had insurable employment at the time of her application for benefits in that she worked for X. The benefits paid for this insurable employment were therefore subtracted from the claim. As a result, the overpayment was reduced. The Commission upheld its decisions regarding the warning and the reconsideration period. The Claimant appealed to the General Division regarding the Commission's reconsideration decision.

[5] The General Division found that the Commission could proceed with the Claimant's reconsideration, following the CRA decision. It found that in the absence of

insurable employment, the benefit period should be cancelled. The General Division found that the penalty was justified because the Claimant had claimed Employment Insurance benefits knowing that she had not worked for X.

[6] In support of her application for leave to appeal, the Claimant argues that the General Division decision contains elements that are untrue and that she did not say. She does not, however, go into further detail regarding the elements in question. She submits that her lawyer did not represent her well at the hearing because he was unprepared and that she had to argue her own case alone. She wanted to have the truth in writing, because this is an important decision.

[7] On July 6, 2018, the Tribunal asked the Claimant to explain in detail why she sought leave to appeal regarding the decision rendered by the General Division. It indicated that it is not enough to assert that the General Division committed an error. The Claimant did not respond to the Tribunal's request before the established deadline.

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

[9] The Tribunal refuses leave to appeal because the Claimant has not raised a ground of appeal upon which the appeal might succeed.

ISSUE

[10] In her grounds of appeal, has the Claimant raised a reviewable error made by the General Division that may give the appeal a reasonable chance of success?

ANALYSIS

[11] Subsection 58(1) of the *Department of Employment and Social Development Act* (DESDA) specifies the only grounds of appeal of a General 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.

[12] An application for leave to appeal is a preliminary step to a hearing on the merits of the case. It is a first step for the Claimant to take, but it involves a lighter burden than the one that must be addressed on the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove her case; she must instead establish that the appeal has a reasonable chance of success. In other words, the Claimant must establish that there is arguably some reviewable error upon which the appeal might succeed.

[13] The Tribunal will grant leave to appeal if it is satisfied that at least one of the grounds of appeal cited by the Claimant has a reasonable chance of success.

[14] This means that the Tribunal must be in a position to determine, in accordance with s. 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 made by the General Division?

[15] In support of her application for leave to appeal, the Claimant argues that the General Division decision contains elements that are untrue and that she did not say. She does not, however, go into further detail regarding the elements in question. She submits that her lawyer did not represent her well at the hearing because he was unprepared and

that she had to argue her own case alone. She wanted to have the truth in writing, because this is an important decision.

[16] The Tribunal asked the Claimant to explain in detail why she sought leave to appeal regarding the decision rendered by the General Division. It indicated that it is not enough to assert that the General Division committed an error. Unfortunately, the Claimant did not respond to the Tribunal's request before the established deadline.

[17] The uncontested evidence before the General Division shows that the Claimant did not have insurable employment with X. The Claimant also admitted that she had not worked for this company, but she nonetheless applied for Employment Insurance benefits.

[18] The Tribunal finds that the Claimant, in spite of its specific request to do so, did not raise any question of law, fact, or jurisdiction that might justify setting aside the decision under review.

[19] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

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

Pierre Lafontaine
Member, Appeal Division

REPRESENTATIVE:	L. G., self-represented
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