



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *D. L. v. Canada Employment Insurance Commission*, 2018 SST 1137

Tribunal File Number: AD-18-675

BETWEEN:

**D. L.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

---

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

---

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: November 5, 2018

## **DECISION AND REASONS**

### **DECISION**

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

### **OVERVIEW**

[2] The Applicant, D. L. (Claimant), completed a training program at X, and the employer offered her the position that she had applied for. Because the employer was offering her only 15 hours of work per week, she decided to take a truck driving course instead. The Respondent (Commission) found that the Claimant had voluntarily left her employment to pursue further studies and that this choice was not her only reasonable alternative. The Claimant requested a reconsideration of this decision, but the Commission upheld its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[3] The General Division determined that voluntarily leaving an employment to pursue further studies, except for study programs authorized by the Commission, is a cause for disqualification from receiving Employment Insurance benefits. The General Division found that the Claimant had not been justified in voluntarily leaving her employment because the decision to leave her employment at that time was not her only reasonable alternative.

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

[5] In support of her application for leave to appeal, the Claimant asserts that she wanted a full-time job. X was offering a full-time job, so she applied for that job. She was accepted into the driving course before being offered a part-time job with X. She submits that Employment Insurance had approved and subsidized the course.

[6] The Tribunal must decide whether there is an arguable case that the General Division made a reviewable error that gives the appeal a reasonable chance of success.

[7] The Tribunal grants leave to appeal because the appeal has a reasonable chance of success based on the grounds of appeal raised by the Claimant.

## **ISSUE**

[8] In her grounds of appeal, has the Claimant identified a reviewable error that the General Division may have made and that gives the appeal a reasonable chance of success?

## **ANALYSIS**

[9] Section 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 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.

[10] An application for leave to appeal is a preliminary step to a hearing on the merits of the case. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met at the hearing of the appeal on the merits. At the application for leave to appeal stage, the Claimant does not have to prove her case, but she must establish that the appeal has a reasonable chance of success. In other words, she must show that there is arguably some reviewable error based on which the appeal may succeed.

[11] The Tribunal will grant leave to appeal if it is satisfied that the Claimant has raised at least one ground of appeal that gives the appeal a reasonable chance of success.

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

**Issue: In her grounds of appeal, has the Claimant identified a reviewable error that the General Division may have made and that gives the appeal a reasonable chance of success?**

[13] In support of her application for leave to appeal, the Claimant asserts that she wanted a full-time job. X was offering a full-time job, so she applied for that job. However, X only offered her a part-time job. So she took a truck driving course that had already been approved and subsidized by Employment Insurance.

[14] The Claimant essentially argues that she did not leave her employment to pursue studies because she wanted a full-time job, not a part-time job. Moreover, Employment Insurance had approved and subsidized her driving course.

[15] 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 a reasonable chance of success. The Claimant has raised a number of issues of fact and law that may lead to the setting aside of the decision under review.

## CONCLUSION

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

Pierre Lafontaine

Member, Appeal Division

REPRESENTATIVE:	D. L., self-represented
-----------------	-------------------------