



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *P. R. v. Canada Employment Insurance Commission*, 2018 SST 1194

Tribunal File Number: AD-18-647

BETWEEN:

**P. R.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**

**Appeal Division**

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Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: November 21, 2018

## DECISION AND REASONS

### DECISION

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

### OVERVIEW

[2] The Applicant, P. R. (Claimant), established a claim for Employment Insurance benefits. She stated that she voluntarily left her part-time employment because she felt she was getting sick and run down from working two jobs and that she no longer needed the extra money. The Claimant further explained that she took the part-time job five years ago only to help pay for her children's post-secondary education.

[3] The Respondent, the Canada Employment Insurance Commission (Commission), determined that the Claimant had voluntarily left her job without just cause. The Claimant asked the Commission to reconsider its decision, but it maintained its original decision. The Claimant appealed the Commission's decision to the General Division of the Tribunal.

[4] The General Division found that the Claimant had left her job because she determined it was in her best interests to do so at the time. She made a personal decision that—while no doubt a good personal choice for her—did not constitute just cause for leaving employment under the *Employment Insurance Act* (EI Act).

[5] The Claimant now seeks leave to appeal the General Division's decision to the Appeal Division. She argues that the General Division made an error when it found that her part-time job was only a summer job. This was a job that she worked all year alongside her full-time job with the X School Board.

[6] On October 15, 2018, the Tribunal sent a letter to the Claimant requesting that she explain in detail her grounds of appeal in accordance with section 58 of the *Department of Employment and Social Development Act* (DESD Act). In her reply, the Claimant essentially repeats the facts of her case to the Appeal Division.

[7] The Tribunal must decide whether there is an arguable case that the General Division made a reviewable error that may form the basis of a successful appeal.

[8] The Tribunal refuses leave to appeal because the Claimant's appeal has no reasonable chance of success.

## **ISSUE**

[9] Has the Claimant raised a reviewable error that the General Division made that gives the appeal a reasonable chance of success?

## **ANALYSIS**

[10] Section 58(1) of the DESD Act 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 had 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 her case; instead, she must establish that the appeal has a reasonable chance of success based on a reviewable error that the General Division made. In other words, she must show that there is an arguable case that the General Division made a reviewable error based on which the appeal might succeed.

[12] Therefore, before leave can be granted, the Tribunal must be satisfied that the reasons for appeal fall within any of the above-mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

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

**Issue: Has the Claimant raised a reviewable error that the General Division made that gives the appeal a reasonable chance of success?**

[14] In her application for leave to appeal, the Claimant argues that the General Division made an error when it concluded that her part-time job was only a summer job. This was a job that she worked all year alongside her full-time job with the X School Board.

[15] The Tribunal must make a decision regarding the Claimant's request for leave to appeal based on the evidence before the General Division.

[16] The undisputed evidence before the General Division shows that the Claimant worked as a full-time educational assistant for the X School Board, that she was always laid off each June, and that she would then return to her job in September.

[17] The Claimant decided to leave her part-time job with X on June 11, 2017, knowing that she would be unemployed at the end of June and would not be working in July or August for the X School Board. She stated that she did not want to work for her part-time employer any longer and did not need the extra income anymore.

[18] The Federal Court of Appeal has established the principle that when a claimant voluntarily leaves part-time employment held concurrently with full-time employment, the claimant must demonstrate that they had reasonable grounds to believe that the full-time employment would continue.<sup>1</sup>

[19] The undisputed facts of the present case do not suggest that the Claimant had reasonable grounds to believe that her full-time employment would continue. She knew that she would be laid off from her full-time job at the end of June and that she would not be working in July and August, when she decided to quit her part-time job.

[20] In her application for leave to appeal, and despite the Tribunal's specific requests to do so, the Claimant has not identified any reviewable errors, such as issues of jurisdiction or any failure by the General Division to observe a principle of natural justice. She has not identified any errors in law or any erroneous findings of fact that the General Division may have made in a

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<sup>1</sup> *Canada (Attorney General) v Marier*, 2013 FCA 39; *Gennarelli v Canada (Attorney General)*, 2004 FCA 198.

perverse or capricious manner or without regard for the material before it when it came to its decision.

[21] For the above-mentioned reasons and after reviewing the appeal docket and the General Division decision and considering the Claimant's arguments in support of her request for leave to appeal, the Tribunal finds that the appeal has no reasonable chance of success.

**CONCLUSION**

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

Pierre Lafontaine  
Member, Appeal Division

REPRESENTATIVE:	P. R., self-represented
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