



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *S. G. v. Canada Employment Insurance Commission*, 2018 SST 1262

Tribunal File Number: AD-18-716

BETWEEN:

**S. G.**

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: December 3, 2018

## DECISION AND REASONS

### DECISION

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

### OVERVIEW

[2] The Applicant, S. G. (Claimant), worked as a night guard at the X (employer). On March 28, 2018, she left her job voluntarily. The Claimant's income is insufficient to cover her living expenses. The Claimant's ex-partner offered to let her live in one of his accommodations in X. She accepted her ex-partner's offer. The [Respondent, the] Canada Employment Insurance Commission (Commission)[,] determined that the Claimant's decision to voluntarily leave her employment was not the only reasonable alternative in her situation. The Claimant requested a reconsideration of that decision, but the Commission maintained its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[3] The General Division determined that the Claimant did not have just cause for voluntarily leaving her employment and that, having regard to all of the circumstances, it was not the only reasonable alternative in her case under sections 29 and 30 of the *Employment Insurance Act* (EI Act).

[4] The Claimant now seeks leave from the Tribunal to appeal the General Division's decision. She argues that she always worked, even after moving into her ex-partner's accommodations. She offered foot care while she was waiting to find another job.

[5] On November 14, 2018, the Tribunal asked the Claimant in writing to provide her detailed grounds of appeal in support of the application for leave to appeal under section 58(1) of the *Department of Employment and Social Development Act* (DESDA).

[6] In her response to the Tribunal, the Applicant stated that she had to move because she could not afford her living expenses. She mentioned that there were no rents under \$500 and that this was too expensive for her. That explains why she moved into the accommodations that her ex-partner offered.

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

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

## **ISSUE**

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

## **ANALYSIS**

[10] Section 58(1) of the DESDA specifies the only grounds of appeal of a General Division decision: 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; she must instead establish that the appeal has a reasonable chance of success. In other words, she must show that there is arguably a 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 grounds of appeal that the Claimant has raised 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 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 the General Division may have made?**

[14] The Claimant stated that she had to move because she could not afford her living expenses. She mentioned that there were no rents under \$500 and that this was too expensive for her. That explains why she moved into the accommodations that her ex-partner offered. She did, however, always work, even after she moved into her ex-partner's accommodations. She offered foot care while she was waiting to find another job.

[15] The Tribunal finds that the Claimant is basically repeating the facts that she already submitted to the General Division regarding her voluntary departure.

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

[17] The issue under appeal before the General Division was whether the Respondent had voluntarily left her employment without just cause under sections 29 and 30 of the EI Act.

[18] It is undisputed that the Claimant quit her job because she had no other choice but to move to X because of her financial problems.

[19] Consistent case law has long established that leaving one's employment because of problems related to accommodations or other personal reasons not related to employment does not constitute just cause under the EI Act.

[20] The Tribunal finds that the General Division correctly stated the applicable legal test. It applied this test to the facts of the case and asked whether, having regard to all the circumstances, the Claimant had no reasonable alternative to leaving her employment.

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

[22] On 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**

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

Pierre Lafontaine  
Member, Appeal Division

REPRESENTATIVE:	S. G., self-represented
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