



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. T. v Canada Employment Insurance Commission*, 2019 SST 30

Tribunal File Number: AD-18-892

BETWEEN:

D. T.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: January 16, 2019

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] The Applicant, D. T. (Claimant), was working in the oil industry, away from her home province where her elderly parents lived. The Claimant and her spouse decided to move to the province where the Claimant's parents lived to help them as necessary. The Claimant researched job opportunities in her home province and determined that she would need a trade to earn a sufficient income. Before leaving her employment, she enrolled in a college trades program that required her full-time attendance at a campus approximately seven hours' drive from her parents' home.

[3] The Respondent, the Canada Employment Insurance Commission (Commission), disqualified the Claimant from receiving Employment Insurance benefits because it determined that she voluntarily left her employment without just cause. The Claimant requested a reconsideration of the decision, and the Commission upheld its original decision. The Claimant appealed to the General Division of the Social Security Tribunal.

[4] The General Division found that the Claimant left her job for personal reasons. It decided that although the Claimant may have felt she had a good reason to voluntarily leave her employment, a good reason is not necessarily sufficient to meet the test for "just cause" 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 reiterates that she left her employment to relocate to her home province and to be more available to help her aging parents. She puts forward that her father has now passed away and that her mother needs more help and care. Between school, taking care of her mother—who is currently living with her—and making trips to take care of her mother's home, working would be very difficult.

[6] 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.

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

ISSUE

[8] Has the Claimant identified a reviewable error made by the General Division that may form the basis of a successful appeal?

ANALYSIS

[9] Section 58(1) of the *Department of Employment and Social Development Act* (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.

[10] 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 establish that the appeal has a reasonable chance of success based on a reviewable error. In other words, she must show that there is arguably some reviewable error on which the appeal might succeed.

[11] Therefore, before leave can be granted, the Tribunal needs to 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.

[12] 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 a question 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 identified a reviewable error made by the General Division that may form the basis of a successful appeal?

[13] In her application for leave to appeal, the Claimant reiterates that she left her employment to relocate to her home province and to be more available to help her aging parents. She puts forward that her father has now passed away and that her mother needs more help and care. Between school, taking care of her mother—who is currently living with her—and making trips to take care of her mother’s home, working would be very difficult.

[14] The General Division had to determine whether the Claimant had just cause to voluntarily leave her employment at the time she left, more precisely on August 22, 2018.

[15] Whether a person had just cause to voluntarily leave an employment depends on whether they had no reasonable alternative to leaving when they did, having regard to all the circumstances, including several specific circumstances listed in section 29 of the EI Act.

[16] The evidence before the General Division does not support that there was an obligation to care for a member of the immediate family and that it was necessary for the Claimant to provide care for her parents when she decided to quit her job. At the time she left her employment, the Claimant’s parents were residing in their own home and continued to do so on and off up to the date of the General Division hearing. Furthermore, the Claimant moved to a location over seven hours’ drive away from the parents’ residence.

[17] As per the General Division decision, the evidence demonstrates that the Claimant wanted to come back to her home province and support her parents through difficult times. This may have been a good personal choice, but it is not sufficient to establish just cause within the meaning of section 29 of the EI Act.

[18] Case law has consistently held that leaving one’s employment for personal reasons not related to employment does not constitute just cause pursuant to the EI Act.

[19] It is also well-established by the courts that leaving employment to pursue studies not authorized by the Commission or a designated authority does not constitute just cause within the meaning of the EI Act.

[20] In her application for leave to appeal, 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 perverse or capricious manner or without regard for the material before it in coming to its decision.

[21] For the above-mentioned reasons and after reviewing the appeal file 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:	D. T., self-represented
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