



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *C. C. v Canada Employment Insurance Commission*, 2019 SST 153

Tribunal File Number: AD-18-713

BETWEEN:

C. C.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Shu-Tai Cheng

Date of Decision: February 21, 2019

DECISION AND REASONS

DECISION

[1] The application for leave to appeal (Application) is refused.

OVERVIEW

[2] The Applicant, C. C., applied for Employment Insurance benefits in August 2018. She first tried to file a claimant's report online in October 2018 but without success because she was blocked out of the system. She was unable to reach Service Canada by telephone, and when she eventually visited a Service Canada Centre, she was told to reapply for benefits. She reapplied on November 22, 2018 and made her first claim for benefits on December 1, 2018.

[3] The Respondent, the Canada Employment Insurance Commission (Commission), determined that the Applicant was disentitled from receiving benefits from September 3 to November 18, 2018 because she had not made claims for benefits within the prescribed time of three weeks. The Applicant asked the Commission to consider her claims as having been made within the prescribed period. The Commission refused her request because it determined that she did not have good cause for the delay in making her claims.

[4] The General Division found that the Applicant had not made a claim for benefits within three weeks and was, therefore, disentitled from receiving benefits for those weeks. Further, the General Division found that the Applicant did not show good cause for the delay.

[5] The Applicant filed the Application with the Appeal Division and submitted that the General Division did not properly evaluate her case. She argues that the General Division's decision was wrong because she tried to complete reports online but was blocked and because she called the support line for help but was not helped.

[6] I find that the appeal does not have a reasonable chance of success because the Application simply repeats arguments the Applicant made to the General Division and does not disclose any reviewable errors.

ISSUE

[7] Is there an arguable case that the General Division made an important error in its findings of fact by concluding that the Applicant did not have good cause for the delay?

ANALYSIS

[8] An applicant must seek leave to appeal in order to appeal a General Division decision. The Appeal Division must either grant or refuse leave to appeal, and an appeal can proceed only if leave to appeal is granted.¹

[9] Before I can grant leave to appeal, I must decide whether the appeal has a reasonable chance of success. In other words, is there an arguable ground on which the proposed appeal might succeed?²

[10] Leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success³ based on a reviewable error.⁴ The only 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.

Issue: Is there an arguable case that the General Division made an important error in its findings of fact by concluding that the Applicant did not have good cause for the delay?

[11] I find that there is no arguable case that the General Division made such an error in its findings of fact.

[12] This appeal turns on whether the Applicant had good cause for delay throughout the entire period of the delay in making her claim.⁵ Applicants are responsible for proving that they

¹ *Department of Employment and Social Development Act* (DESD Act) at ss 56(1) and 58(3).

² *Osaj v Canada (Attorney General)*, 2016 FC 115, at para 12; *Murphy v Canada (Attorney General)*, 2016 FC 1208, at para 36; *Glover v Canada (Attorney General)*, 2017 FC 363, at para 22.

³ DESD Act at s 58(2).

⁴ *Ibid.* at s 58(1).

⁵ *Canada (Attorney General) v Kaler*, 2011 FCA 266.

had good cause.⁶ The question that decision-makers must ask when assessing good cause is whether the applicant acted as a reasonable person in the same situation would have done in order to satisfy themselves of both their rights and obligations under the *Employment Insurance Act* (EI Act).⁷

[13] The General Division correctly stated the relevant legislative provisions, the binding jurisprudence, and the applicable legal tests.⁸

[14] The General Division considered the evidence in the documentary record. It also considered the testimony that the Applicant gave during the teleconference hearing. The General Division considered the Applicant's explanation for her delay in filing reports, including being blocked out of the system and her unsuccessful attempts to reach Service Canada by telephone.

[15] The General Division considered the Applicant's circumstances and found that:

a reasonable and prudent person after being unsuccessful in using the internet reporting service, and being unable to get through to the Commission on the telephone, would have promptly visited a Service Canada Centre and would have promptly followed any advice given to her. I find that there was a significant delay between the [Applicant's] attempt to file her biweekly report on October 7 and when she reapplied for benefits, more than a month later, on November 22. By not acting promptly, she did not act like a reasonable and prudent person in similar circumstances, and as such, has not proven that she had good cause for the delay.⁹

[16] In the Application, the Applicant argues that she tried to file her reports, but her account was blocked, and that she called the support line for help but did not get help.

[17] In its decision, the General Division noted the Applicant's submissions before it, which included each of these arguments. Essentially, the Applicant seeks to reargue her case based on the same arguments that she made at the General Division. Simply repeating her arguments falls short of disclosing a ground of appeal that is based on a reviewable error.

[18] The appeal has no reasonable chance of success based on this ground.

⁶ *Canada (Attorney General) v Chalk*, 2010 FCA 243; *Canada (Attorney General) v Trinh*, 2010 FCA 335.

⁷ *Kaler*, *supra* note 5; *Canada (Attorney General) v Beaudin*, 2005 FCA 123.

⁸ General Division decision, at paras 9–11 and 16–20.

⁹ *Ibid.* at para. 19.

[19] I have read and considered the General Division decision and the documentary record. I find that the General Division did not overlook or misconstrue any important evidence. There is no suggestion that the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction or that it erred in law in coming to its decision.

[20] The appeal does not have a reasonable chance of success.

CONCLUSION

[21] I am satisfied that the appeal has no reasonable chance of success, so the Application is refused.

Shu-Tai Cheng
Member, Appeal Division

REPRESENTATIVE:	C. C., self-represented
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