



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. N. v Canada Employment Insurance Commission*, 2019 SST 171

Tribunal File Number: AD-19-15

BETWEEN:

R. N.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Jude Samson

Date of Decision: March 4, 2019

DECISION AND REASONS

DECISION

[1] The application requesting leave to appeal is refused.

OVERVIEW

[2] R. N. (Claimant) was working for a bank when he received a conditional offer of employment that he wanted to pursue because he considered it to be a better job than the one he had. Before taking up this new job, however, the Claimant had to complete a full-time, eight-week training program, and he quit his job at the bank to do this.

[3] But things did not go as planned. Instead, the Claimant was injured, causing him to interrupt his training program and restart it at a later date. It also meant that the Claimant was without work—and income—for much longer than he had expected.

[4] As a result, the Claimant applied for a combination of regular and sickness benefits under the terms of the *Employment Insurance Act*. However, the Canada Employment Insurance Commission (Commission), refused to pay benefits to the Claimant saying that he had voluntarily left his job at the bank without just cause and that, even if he had not been sick, he would not have been available for work because he would have stayed in his training program.

[5] The Claimant challenged the Commission's decision to the Tribunal's General Division, but it dismissed his appeal. The Claimant now wants to appeal the General Division decision to the Tribunal's Appeal Division, but he requires leave (or permission) to appeal for the file to move forward. Unfortunately for the Claimant, I have concluded that his appeal has no reasonable chance of success and that leave to appeal must therefore be denied.

ISSUES

[6] In reaching this decision, I focused on the following issues:

- a) Do any of the Claimant's arguments fall within a recognized ground of appeal and, if so, do they amount to an arguable ground on which the appeal might succeed?

- b) Is there an arguable case that the General Division misinterpreted or failed to properly consider relevant evidence?

ANALYSIS

The Appeal Division's Legal Framework

[7] The Tribunal has two divisions that operate quite differently from one another. At the Appeal Division, the focus is on whether the General Division might have committed one or more of the recognized errors (grounds of appeal) set out in section 58(1) of the *Department of Employment and Social Development Act* (DESD Act). As a result, the Appeal Division can intervene in a case only if the General Division

- a) breached a principle of natural justice or made an error relating to its jurisdiction;
- b) rendered a decision that contains an error of law; or
- c) 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.

[8] There are also procedural differences between the Tribunal's two divisions. Most cases before the Appeal Division follow a two-step process: the leave to appeal stage and the merits stage. This appeal is at the leave to appeal stage, meaning that permission must be granted for it to move forward. This is a preliminary hurdle aimed at filtering out cases that have no reasonable chance of success.¹ The legal test that applicants need to meet at this stage is a low one: Is there any arguable ground on which the appeal might succeed?²

Issue 1: Do any of the Claimant's arguments fall within a recognized ground of appeal and, if so, do they amount to an arguable ground on which the appeal might succeed?

[9] In my view, the Claimant's arguments neither fall within a ground of appeal that I can consider nor do they amount to an arguable ground on which the appeal might succeed.

¹ DESD Act, s 58(2).

² *Osaj v Canada (Attorney General)*, 2016 FC 115 at para 12; *Ingram v Canada (Attorney General)*, 2017 FC 259 at para 16.

[10] On his request for leave to appeal, the Claimant ticked a box alleging that the General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction.³ Generally speaking, the principles of natural justice focus on the process before the General Division, including whether the parties had a fair and reasonable opportunity to present their case and have it decided by an impartial decision-maker.

[11] However, I am unable to see a connection between the principles of natural justice and the details set out in the Claimant's request for leave to appeal. Rather, the Claimant focused on explaining why he dislikes the outcome of the case and therefore finds it to be unfair.

[12] Regardless of the box that the Claimant ticked on his request for leave to appeal, it does little more than to simply repeat points that the General Division has already considered. As discussed above, the Appeal Division's role is limited: The Appeal Division is not a place where the Claimant can go to reargue his case in hopes of getting a different result.⁴

[13] In this case, the Claimant has not pointed to any relevant error in the General Division decision, and none are immediately obvious to me.

Issue 2: Is there an arguable case that the General Division misinterpreted or failed to properly consider relevant evidence?

[14] Regardless of the conclusion above, I am mindful of Federal Court decisions in which the Appeal Division has been told to go beyond the four corners of the written materials and to assess whether the General Division might have misinterpreted or failed to properly consider relevant evidence.⁵ If this is the case, then leave to appeal should normally be granted regardless of any technical problems in the request for leave to appeal.

[15] After reviewing the documentary record and examining the decision under appeal, I am satisfied that the General Division neither misinterpreted nor failed to properly consider any relevant evidence.

³ AD1-3.

⁴ *Bellefeuille v Canada (Attorney General)*, 2014 FC 963 at para 31; *Rouleau v Canada (Attorney General)*, 2017 FC 534 at para 42.

⁵ *Griffin v Canada (Attorney General)*, 2016 FC 874 at para 20; *Karadeolian v Canada (Attorney General)*, 2016 FC 615 at para 10.

CONCLUSION

[16] I sympathize greatly with the difficult circumstances in which the Claimant finds himself and understand the disappointment he must have felt after reading the General Division decision. Having concluded that the Claimant's appeal has no reasonable chance of success, however, I have no choice but to refuse his request for leave to appeal.

Jude Samson
Member, Appeal Division

REPRESENTATIVE:	R. N., self-represented
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