



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *HV v Canada Employment Insurance Commission*, 2020 SST 1691

Tribunal File Number: GE-18-3905

BETWEEN:

H. V.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Bernadette Syverin

DATE OF DECISION: March 14, 2019

REASONS AND DECISION

[1] The General Division must summarily dismiss an appeal if it has no reasonable chance of success (Subsection 53 [1] of the *Department of Employment and Social Development Act* [DESD Act]). After reviewing the docket, the Tribunal determined that the appeal had no reasonable chance of success. In fact, the Respondent rendered a reconsideration decision in favour of the Appellant when it determined that only the sum of \$1747.20 should be allocated.

ISSUE

[2] The Tribunal must decide whether the appeal should be summarily dismissed.

ANALYSIS

[3] The legislation regarding summary dismissals is clear; the General Division must summarily dismiss an appeal if it is satisfied that it has no reasonable chance of success (Subsection 53 [1] of the DESD Act). An appeal has no reasonable chance of success if it is plain and obvious on the face of the record that the appeal is bound to fail, regardless of the evidence or arguments that could be presented at a hearing [*Lessard-Gauvin v. Canada (Attorney General)*, 2013 CAF 147, 2013 FCA 147; *Sellathurai v. Canada (Public Safety and Emergency Preparedness)*, 2011 FCA 1].

[4] Does the appeal have a reasonable chance of success? For the following reasons, the Tribunal finds that the Appellant's appeal has no reasonable chance of success.

[5] The Appellant made an employment insurance claim and a benefit period was established. Following which, the Appellant advised the Respondent of money received from his employer post employment. The Respondent allocated the amount of \$560 as payment in lieu of notice and the sum of \$1,747.20 as severance pay. The Appellant requested a reconsideration of the Commission's decision, arguing that he did not receive \$560 as payment in lieu of notice and that the only amount which should have been subject to allocation is the sum of \$1,747.20 which was paid to him as severance. The Commission reviewed the file and agreed with the Appellant. As such, the Commission cancelled the allocation of \$560 and maintained the allocation of the sum of \$1,747.20 that the Appellant does not dispute was paid as severance.

[6] In the case at hand, the Appellant does not dispute the fact that he only received \$1,747.20 as severance pay nor the Respondent's allocation of said amount. Given this, in accordance with s. 22 of the *Social Security Tribunal Regulations*, the General Division member sent a notice of her intention to proceed by way of summary dismissal. In his response to this notice, the Appellant states that an additional amount of \$1680 was also allocated. This argument cannot stand as the Respondent provided evidence indicating that only the amount of \$1,747.20 was allocated [GD10].

[7] The Appellant also submits that his appeal should not be dismissed because the amount of \$1680 is still showing on his record of employment and that the latter must be corrected to reflect the fact that he only received \$1747.20 as severance pay. This argument cannot stand, as it is not the Tribunal's role to correct information appearing on a record of employment.

[8] Based on the foregoing, the Tribunal finds that the appeal has no reasonable chance of success as the Respondent decided in favour of the Appellant by deciding to allocate only the amount of \$1747.20. Hence, it is obvious on the face of the record that the appeal is bound to fail, regardless of the evidence or arguments that could be presented at a hearing.

CONCLUSION

[9] The Tribunal concludes that the appeal must be summarily dismissed, as it has no reasonable chance of success.

Bernadette Syverin
Member, General Division - Employment Insurance Section