



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. K. v Canada Employment Insurance Commission*, 2019 SST 312

Tribunal File Number: AD-19-34

BETWEEN:

M. K.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: April 1, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] M. K. (Claimant) worked in X, Ontario until September 29, 2018. She left her work at that time to relocate to Newfoundland. She applied for Employment Insurance benefits and established an initial claim on September 30, 2018. The Canada Employment Insurance Commission refused the application because it decided that the Claimant had voluntarily left her employment without just cause.

[3] The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal for the same reason. Leave to appeal to the Tribunal's Appeal Division is refused because the Claimant has not presented a ground of appeal under the *Department of Employment and Social Development Act* (DESD Act) on which the appeal has a reasonable chance of success.

ISSUE

[4] Does the appeal have a reasonable chance of success because the Claimant now says that she had to relocate to Newfoundland because her common-law spouse moved there?

ANALYSIS

[5] The DESD Act governs the Tribunal's operation. It sets out only three grounds of appeal that the Appeal Division can consider. They are that the General Division failed to observe a principle of natural justice or made a jurisdictional error, made an error in law, or based its decision on an erroneous finding of fact made in a perverse or capricious manner or without regard for the material before it.¹ In addition, leave to appeal is to be refused if the appeal has no reasonable chance of success.² Therefore, to be granted leave to appeal the Claimant must

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

present a ground of appeal that falls under the DESD Act and on which the appeal has a reasonable chance of success.

[6] In the application for leave to appeal the Claimant again wrote that she had failed to say that she had to relocate to Newfoundland because her common-law partner was moving there and that she had to follow him. The Tribunal wrote to the Claimant and requested that she present grounds of appeal under the DESD Act. In response the Claimant repeated the same argument.

[7] An appeal to the Appeal Division is not a rehearing of the appeal. The presentation of new evidence or a different argument than what was presented to the General Division is not a ground of appeal under the DESD Act. The principles of natural justice are concerned with ensuring that all parties to an appeal have the opportunity to present their case to the Tribunal, to know and answer the legal case against them, and to have a decision made by an impartial decision maker based on the law and the facts. The Claimant does not indicate that she was not able to fully present her case to the General Division, that she did not understand or was not able to answer the Commission's case, or that the decision was made improperly. The fact that the Claimant now says that she had to follow her common-law partner to Newfoundland does not point to any such error. Leave to appeal cannot be granted on this basis.

[8] I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is no indication that the General Division made an error in law.

CONCLUSION

[9] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVES:	M. K., Self-represented
------------------	-------------------------