



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. R. v Canada Employment Insurance Commission*, 2019 SST 398

Tribunal File Number: AD-19-179

BETWEEN:

A. R.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: May 1, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] A. R. (Claimant) had employment in Toronto. He left this job on June 15, 2018, to move with his family to Kitchener, Ontario. He applied for Employment Insurance benefits. The Canada Employment Insurance Commission refused the application on the basis that the Claimant was disqualified for benefits because he voluntarily left his employment without just cause.

[3] The Claimant appealed this decision to the Tribunal. The Tribunal's General Division held a hearing and dismissed the appeal for the same reason. Leave to appeal this decision to the Tribunal's Appeal Division is refused because the appeal does not have a reasonable chance of success.

ISSUES

[4] Does the appeal have a reasonable chance of success because the General Division failed to observe a principle of natural justice or made an error in law when it gave greater weight to evidence from the Claimant's new employer?

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

¹ DESD Act s. 58(1)

reasonable chance of success.² The Claimant's grounds of appeal are considered below in this context.

[6] The Claimant says that the General Division failed to observe a principle of natural justice and made an error in law because it gave greater weight to evidence from the employer than from him. However, the principles of natural justice are not concerned with how evidence is weighed. They 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's disagreement with how the General Division weighed the evidence does not point to any failure to observe these principles. The appeal therefore does not have a reasonable chance of success on the basis that the General Division failed to observe a principle of natural justice.

[7] The appeal also does not have a reasonable chance of success on the basis that the General Division made an error in law. The *Employment Insurance Act* states that just cause for leaving an employment exists if the claimant had no reasonable alternative to leaving, having regard to all of the circumstances.³ In the materials filed with the General Division the Claimant stated that he decided to move to another city because the cost of living in Toronto was too high and he has a family.⁴ The General Division considered this along with the circumstances surrounding his new employment.⁵

[8] I have read the General Division decision and reviewed the written record. The General Division did not overlook or misconstrue any important information. The Claimant's disagreement with the outcome of the appeal or how the General Division weighed the evidence does not point to any error in law. Leave to appeal cannot be granted on this basis.

[9] The General Division's mandate is to receive the parties' evidence, weigh it, apply the law to the facts and make a decision. It is not for the Appeal Division to substitute its view of the persuasive value of the evidence for that of the General Division who made the findings of fact.⁶

² DESD Act s. 58(2)

³ *Employment Insurance Act* s. 29(c)

⁴ GD3-17

⁵ General Division decision at para. 14

⁶ *Simpson v. Canada (Attorney General)*, 2012 FCA 82

Leave to appeal cannot be granted because the Claimant disagrees with how the General Division weighed the evidence before it.

[10] The Claimant also presents two additional email streams with his application to the Appeal Division. New evidence is generally not permitted on an appeal,⁷ so leave to appeal cannot be granted on the basis of the presentation of this evidence.

CONCLUSION

[11] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

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| REPRESENTATIVE: | A. R., Self-represented |
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⁷ *Canada (Attorney General) v. O'Keefe*, 2016 FC 503