



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. C. v Canada Employment Insurance Commission*, 2019 SST 512

Tribunal File Number: AD-19-9

BETWEEN:

G. C.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: May 27, 2019

DECISION AND REASONS

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] G. C. (Claimant) worked in Alberta until December 10, 2017. He reactivated an Employment Insurance claim on December 10, 2017, when the employer's Christmas break began. The Claimant did not return to work on January 7, 2018, when this break ended. The Claimant says that he left work in Alberta and returned to his home province because he was being bullied at work, because his son was becoming involved with street drugs and his wife was not coping well with the situation.

[3] The Canada Employment Insurance Commission decided that the Claimant was disqualified from receiving Employment Insurance benefits because he voluntarily left his employment without just cause on December 10, 2017. It also assessed two penalties because it decided that the Claimant had knowingly made false representations.

[4] The Claimant appealed the Commission's decisions to the Tribunal. The Tribunal's General Division dismissed the appeal because it decided that the Claimant had voluntarily left his job without just cause and made false statements on his claim forms.

ISSUES

[5] Did the General Division refuse to observe a principle of natural justice because it refused to accept the Claimant's evidence at the hearing?

[6] Did the General Division make an error in law because it failed to consider whether he left work to care for a member of his immediate family?

[7] Did the General Division make an error in law because it failed to consider whether the Claimant knowingly made false statements on his employment insurance claim forms?

ANALYSIS

[8] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It sets out only three grounds of appeal that the Tribunal's Appeal Division can consider. They are that the General Division failed to observe a principle of natural justice, 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 Therefore, the Appeal Division can only change the General Division's decision if the Claimant has proven that the General Division made at least one error under the DESD Act. The parties' arguments are examined below.

Issue 1: the Claimant's additional evidence

[9] In his application to the Appeal Division, the Claimant states that the General Division did not accept additional evidence that he presented at the hearing regarding one reason that he left his employment – that his son was not well and his wife was not coping with the situation. However, the General Division hearing recording reveals that the General Division member did accept this additional evidence and asked the Claimant to read some of it into the record. This evidence included printed copies of text message exchanges between the Claimant and his wife regarding her difficulty coping with their son's situation. The General Division member considered this evidence along with the written evidence to make its decision.² Therefore, the General Division made no error in this regard, and the appeal fails on this basis.

Issue 2: The Claimant left work to care for a family member

[10] One ground of appeal under the DESD Act is that the General Division made an error in law. The General Division did not do so in this case. The *Employment Insurance Act* states that a claimant is disqualified from receiving any benefits if they voluntarily left their employment without just cause.³ Just cause for leaving employment exists if the claimant had no reasonable alternative to leaving having regard to all of the circumstances, including an obligation to care

¹ DESD Act s. 58(1)

² General Division decision at para. 16

³ *Employment Insurance Act* s. 30(1)

for a child or a member of the immediate family.⁴ The General Division decision states that the Claimant expressed a number of issues which led to his leaving work, including that his wife was stressed at home caring for three children, one of whom was abusing drugs.⁵ However, the Claimant did not suggest that he had to return home to care for a family member. The General Division did not examine this issue, or consider it in making its decision. It made no error in this regard because the issue was not before it.

Issue 3: the Claimant's false representations

[11] The Commission imposed two penalties because the Claimant made false representations on his claim forms when he stated that he was unemployed due to lack of work. The General Division decision states that while the Claimant expected to receive a Record of Employment (ROE) that confirmed this, he also knew that there was work available to him at the time he quit.⁶ On this basis, the General Division confirmed the Commission's decision that the Claimant knowingly made false or misleading statements such that a penalty was properly imposed.

[12] In order for a penalty to be imposed, there had to be proof that the Claimant knew that the statement was false or misleading.⁷ The evidence before the General Division was clear that the Claimant expected that the ROE would state that he had been separated from work because of a lack of work since his supervisor had assured him of this. However, he knew that this was not accurate. He also stated that he quit his job. The General Division therefore made no error in law in this regard, and this ground of appeal fails.

CONCLUSION

[13] The appeal is dismissed.

Valerie Hazlett Parker
Member, Appeal Division

⁴ *Employment Insurance Act* s. 29(c)(v)

⁵ General Division decision at para. 11

⁶ *Ibid.* at para. 24

⁷ *Courty v. Canada Employment Insurance Commission* (1987), 16 F.T.R. 36

HEARD ON:	May 10, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	G. C., Appellant S. Prud'Homme, Representative for the Respondent