



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *E. D. v Canada Employment Insurance Commission*, 2019 SST 558

Tribunal File Number: AD-19-156

BETWEEN:

**E. D.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Pierre Lafontaine

DATE OF DECISION: June 10, 2019

## **DECISION AND REASONS**

### **DECISION**

[1] The Tribunal dismisses the appeal.

### **OVERVIEW**

[2] The Appellant, E. D. (Claimant), was employed under a student subsidy program while attending her final year of high school and over the summer. The employer asked her to continue working at the end of summer instead and she declined because she had made plans to attend school in another city. She made a claim for employment insurance benefits and the Commission disqualified her from receiving benefits because it determined she had voluntarily left her employment without just cause. The Claimant requested a reconsideration because she was supposed to be laid off at the end of summer as part of the student employment program. The Commission maintained its decision because the Claimant made a personal decision to attend school rather than staying employed. The Claimant appealed to the General Division.

[3] The General Division found that the Claimant left her employment voluntarily and that she had reasonable alternatives to quitting. She could have stayed employed rather than making a personal choice to leave her job to attend school.

[4] The Claimant was granted leave to appeal the General Division's decision to the Appeal Division. She submits that she was on a student program that, once completed, permitted her to get Employment Insurance benefits while attending school to further her education. She argues that that is the reason for the whole program.

[5] The Tribunal must decide whether the General Division erred when it concluded that the Claimant did not have just cause to voluntarily leave her employment.

[6] The Tribunal dismisses the Claimant's appeal.

## ISSUE

[7] Did the General Division err in law when it concluded that the Claimant did not have just cause to leave her employment when she decided to go back to school at the end of a student subsidy program?

## ANALYSIS

### Appeal Division's mandate

[8] The Federal Court of Appeal has determined that when the Appeal Division hears appeals pursuant to subsection 58(1) of the *Department of Employment and Social Development Act* (DESD Act), the mandate of the Appeal Division is conferred to it by sections 55 to 69 of that Act.<sup>1</sup>

[9] The Appeal Division acts as an administrative appeal tribunal for decisions rendered by the General Division and does not exercise a superintending power similar to that exercised by a higher court.<sup>2</sup>

[10] Therefore, unless the General Division failed to observe a principle of natural justice, erred in law, 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, the Tribunal must dismiss the appeal.

**Issue: Did the General Division err in law when it concluded that the Claimant did not have just cause to leave her employment when she decided to go back to school at the end of a student subsidy program?**

[11] The Claimant's appeal is dismissed.

[12] The issue before the General Division was whether the Claimant had just cause to voluntarily leave her employment pursuant to section 29 of the EI Act.

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<sup>1</sup> *Canada (Attorney General) v Jean*, 2015 FCA 242; *Maunder v. Canada (Attorney General)*, 2015 FCA 274.

<sup>2</sup> *Idem*.

[13] The General Division found that the Claimant left her employment voluntarily and that she had reasonable alternatives to quitting. She could have stayed employed rather than making a personal choice to leave her job to attend school.

[14] The facts are not in dispute. The Claimant advised the employer in the beginning of the summer that she was leaving for school after August 17, 2018, and could not continue working after that date. However, the employer wanted her to continue working and offered her a promotion to manager if she would stay. She declined the offer of continued work because her goal was always to better her education by attending post-secondary school. The Claimant, although on a student subsidy program, was not authorized by the Commission to return to school.

[15] The evidence shows that the Claimant had the choice to stay in her employment but made a personal decision to leave in order to pursue her studies. It was not the employer who ended the contract of employment. Therefore, the Claimant voluntarily left her employment.

[16] As stated by the General Division, it is well settled case law that a claimant who voluntarily leaves their employment to take a course of instruction, which is not authorized by the Commission, has an excellent reason for doing so in personal terms but it does not constitute just cause under the EI Act.<sup>3</sup>

[17] As explained during the appeal hearing, the Appeal Division does not have the authority to retry a case or to substitute his discretion for that of the General Division. Its jurisdiction is limited by subsection 58(1) of the DESD Act. Unless the General Division failed to observe a principle of natural justice, erred in law, 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, the Tribunal must dismiss the appeal.

[18] The Tribunal finds that the decision of the General Division is based on the evidence before it and that it complies with the law and the decided cases. The Claimant,

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<sup>3</sup> *Canada (Attorney General) v Martel*, A-1691-92); *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.

having regards to all the circumstances, had a reasonable alternative to leaving her employment when she did.

**CONCLUSION**

[19] The Tribunal dismisses the appeal.

Pierre Lafontaine  
Member, Appeal Division

HEARD ON:	June 4, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	E. D., Appellant