



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *S. B. v Canada Employment Insurance Commission*, 2019 SST 784

Tribunal File Number: AD-19-508

BETWEEN:

**S. B.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**

**Appeal Division**

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Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: August 20, 2019

## **DECISION AND REASONS**

### **DECISION**

[1] Leave to appeal is refused.

### **OVERVIEW**

[2] S. B. (Claimant) worked as a head cook at a shelter from January 11, 2016, until he quit on January 11, 2019. He applied for regular Employment Insurance benefits. The Canada Employment Insurance Commission dismissed the application on the basis that the Claimant voluntarily left his employment without just cause.

The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal on the same basis. Leave to appeal this decision to the Tribunal's Appeal Division is refused because the Claimant has not presented a ground of appeal that has a reasonable chance of success on appeal.

### **ISSUE**

[3] Does the appeal have a reasonable chance of success because the General Division failed to consider the Claimant's reasons for leaving his employment?

### **ANALYSIS**

[4] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim, but a determination of whether the General Division made an error under the DESD Act. The Act also states that there are only three kinds of errors that can be considered. 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.<sup>1</sup> In addition, leave to appeal must be refused if the appeal has no reasonable chance of success.<sup>2</sup>

[5] The Claimant argues that he had just cause for quitting his employment because the shelter manager and his chef supervisor harassed him, discriminated against him and pressured him to quit. He also argued he feared for his safety from his chef supervisor and his work duties were significantly changed. He presented these arguments at the General Division as well.

[6] The General Division decision includes a detailed summary of the evidence that was before it, including the Claimant's testimony that explained the circumstances that led to him quitting his employment.<sup>3</sup> The evidence also included the Employer's decision to have the Claimant work at another location after an incident between the Claimant and another employee and the Claimant's refusal to return to work the following work day.

[7] The General Division decision specifically considers the Claimant's arguments. The General Division concluded that the Claimant had not been harassed – that a disagreement between the Claimant and his supervisor about directions was not harassment,<sup>4</sup> that he was not discriminated against when another cook of another ethnicity was hired because there was no evidence to support this,<sup>5</sup> that he was not pressured to quit – direction by a supervisor is not such pressure, and the Employer moved him to another location was to resolve a workplace conflict, not to encourage the Claimant to quit.<sup>6</sup>

[8] In addition, the General Division decided that moving the Claimant to the different location did not amount to a significant change in work duties, at least in part because it was not clear whether this was a permanent reassignment, and that the Claimant had no reason to fear for his safety. Finally, the General Division concluded, after reviewing all of the evidence, that the Claimant has reasonable alternatives to leaving his employment, including attending a meeting to

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<sup>1</sup> DESD Act s. 58(1)

<sup>2</sup> DESD Act s. 58(2)

<sup>3</sup> General Division decision at paras. 19-33

<sup>4</sup> *Ibid.* at para. 51

<sup>5</sup> *Ibid.* at para. 63

<sup>6</sup> *Ibid.* at paras. 56, 57

which he was invited to resolve issues. Therefore, he did not have just cause to voluntarily leave his employment.

[9] The repetition of these arguments does not point to the General Division having made an error in law or to having based its decision on an erroneous finding of fact made perversely, capriciously or without regard for the material that was before it. I have read the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is no suggestion that it failed to observe a principle of natural justice.

**CONCLUSION**

[10] Therefore, leave to appeal is refused.

Valerie Hazlett Parker  
Member, Appeal Division

REPRESENTATIVES:	S. B., Self-represented
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