



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *L. R. v Canada Employment Insurance Commission*, 2019 SST 1044

Tribunal File Number: AD-19-509

BETWEEN:

**L. R.**

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: September 19, 2019

## **DECISION AND REASONS**

### **DECISION**

[1] Leave to appeal is refused.

### **OVERVIEW**

[2] L. R. (Claimant) worked as a delivery driver. He left this job because he believed that the truck that the employer provided for him to drive was unsafe. He applied for regular Employment Insurance benefits (EI). The Canada Employment Insurance Commission decided that the Claimant was disqualified from receiving EI because he had voluntarily left work 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 the General Division decision to the Tribunal's Appeal Division is refused because the appeal does not have a reasonable chance of success.

### **PRELIMINARY MATTER**

[4] The Claimant did not present any ground of appeal that falls under the *Department of Employment and Social Development Act* (DESD Act) in the Application to the Appeal Division. The Tribunal wrote to the Claimant and asked him to provide this. He did not respond to this letter.

### **ISSUE**

[5] Does the appeal have a reasonable chance of success because the General Division based its decision on an erroneous finding of fact regarding the safety of the vehicle the Claimant was to drive?

### **ANALYSIS**

[6] The 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> Therefore, to be granted leave to appeal the Claimant must present at least one ground of appeal that falls under the DESD Act and on which the appeal has a reasonable chance of success.

[7] The Claimant says that the truck he was to drive at work was unsafe so he made the proper decision to refuse to drive it. This is the same argument he made before the General Division. The General Division decision considered this. It examined all of the evidence, including the Claimant's testimony, copies of pre-trip inspection forms completed by the Claimant that indicate no defect in the truck,<sup>3</sup> and information from the employer that although the truck required some repairs, this did not impact its safety. This included a letter from a car dealership regarding repairs,<sup>4</sup> and the vehicle's annual inspection certificate.<sup>5</sup>

[8] The General Division also considered that the Claimant had alternatives to leaving his employment, including requesting a change of vehicle to drive, or reporting the matter to the employer and provincial authorities.<sup>6</sup>

[9] I have also read the General Division decision and the written record. The General Division did not overlook or misconstrue any important information.

[10] The repetition of arguments made before the General Division does not point to the General Division having made an error under the DESD Act. The appeal does not have a reasonable chance of success.

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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 para. 14

<sup>4</sup> *Ibid* at para. 16

<sup>5</sup> *Ibid.* at para. 17

<sup>6</sup> *Ibid.* at para. 25

**CONCLUSION**

[11] The Application is refused.

Valerie Hazlett Parker  
Member, Appeal Division

REPRESENTATIVES:	L. R., Self-represented
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