



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Q. G. v Canada Employment Insurance Commission*, 2019 SST 1049

Tribunal File Number: AD-19-581

BETWEEN:

Q. G.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Valerie Hazlett Parker

Date of Decision: September 20, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] Q. G. (Claimant) left her employment as an accounts payable clerk when she had to wait six months to be eligible for extended health care benefits while she believed other employees only waited three months, and also because she thought she was going to be fired. She applied for regular Employment Insurance benefits (EI). The Canada Employment Insurance Commission decided that the Claimant was disqualified from receiving EI because she had voluntarily left her employment 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 this decision to the Tribunal's Appeal Division is refused because the Claimant has not presented a ground of appeal that falls under the *Department of Employment and Social Development Act* (DESD Act) on which the appeal has a reasonable chance of success.

PRELIMINARY MATTERS

[4] The Claimant did not present any ground of appeal under the DESD Act in the Application to the Appeal Division. The Tribunal wrote to the Claimant, explained what grounds of appeal can be considered and requested that she provide grounds of appeal. The Claimant responded to this letter and said that she had already provided all the information.

ISSUE

[5] Does the appeal have a reasonable chance of success because the General Division based its decision on an erroneous finding of fact made without regard for all of the evidence that was before it?

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.¹ In addition, leave to appeal must be refused if the appeal has no reasonable chance of success.²

[7] The Claimant says that leave to appeal should be granted because the General Division did not consider all of her evidence. For example, she says that she knew that the Employer was going to fire her because it hired someone else to do the same duties as she did, and that the General Division considered this statement out of context.

[8] The General Division decision states

The Claimant argues that the company showed it was dismissing her by posting her job on the evening of March 7, 2019, after her conversation with her manager that afternoon. She thinks the job posting was the employer's answer to her complaints about having to wait six months to get on the benefit plan. She does not believe the employer was hiring someone to help her. She says she had no choice but to leave because the manager intended to replace her.³

The decision also states that the Claimant left her job the day that she saw the job posting, before the Employer had responded to her concerns in this regard.⁴ It considered this along with the Claimant's evidence that she believed that the Employer was going to fire her. Therefore, this argument does not point to the General Division having based its decision on an erroneous

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

³ General Division decision at para. 9

⁴ General Division decision at para. 11-12

finding of fact made without regard for all of the evidence. Leave to appeal is not granted on this basis.

[9] The Claimant wrote in the Application to the Appeal Division that there are other examples of this that she would provide at a hearing. However, under the DESD Act leave to appeal cannot be granted on the promise to present a ground of appeal.

[10] The Claimant also argues that the General Division’s decision was based on its “guess and presume”. She does not explain what this means. However, I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. It did not draw any conclusions that were not supported by the evidence.

[11] The General Division considered all of the Claimant’s arguments, including that she could not join the benefit plan for six months,⁵ that her direct manager was arrogant, and that her workload was too heavy.⁶

[12] The Claimant’s repetition of arguments presented to the General Division is not a ground of appeal under the DESD Act. Leave to appeal cannot be granted on this basis.

CONCLUSION

[13] Leave to appeal is refused.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	Q. G., Self-represented
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⁵ General Division decision at para. 16

⁶ *Ibid* at para. 17