



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation : *Z. G. v Canada Employment Insurance Commission*, 2019 SST 1256

Tribunal File Number: AD-19-629

BETWEEN:

**Z. G.**

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 26, 2019

## **DECISION AND REASONS**

### **DECISION**

[1] Leave to appeal is refused.

### **OVERVIEW**

[2] Z. G. (Claimant) was separated from her employment when she took vacation that the employer says it did not authorize. The Claimant 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. The Claimant made an application for leave to appeal this decision to the Tribunal's Appeal Division and a separate application to rescind or amend the General Division decision based on new material facts, being a new Record of Employment from the Employer.

[4] The General Division dismissed the application to rescind or amend the General Division decision. The Claimant's application to appeal the decision that refused to rescind or amend the General Division decision is refused because the appeal does not have a reasonable chance of success based on the General Division having based its decision on any erroneous finding of fact.

### **ISSUE**

[5] Does the appeal have a reasonable chance of success because the General Division based its decision on an erroneous finding of fact that the Claimant quit her job?

[6] Does the appeal have a reasonable chance of success because it was not the Claimant's fault that she was separated from employment?

### **ANALYSIS**

[7] 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 does not have a 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.

[8] When the Claimant was first separated from her employment, the Record of Employment stated that she had quit her job. However, later the employer issued another Record of Employment that stated “other” as the reason for her leaving work. The Claimant argued that this was a new material fact upon which the General Division should rescind or amend its initial decision.

[9] The Claimant now argues that leave to appeal should be granted because it was not her fault that these codes were used in the Records of Employment. However, the General Division considered the new Record of Employment and whether it is a new material fact under the DESD Act. The decision states that this document is not a new material fact under the DESD Act because it does not change the employer’s statements regarding the Claimant’s vacation request and the employer’s denial of this, or the employer’s stance that the Claimant did not attend work for scheduled shifts.<sup>3</sup> There was an evidentiary basis for this finding of fact. The appeal does not have a reasonable chance of success on the basis that the General Division based its decision on an erroneous finding of fact in this regard.

[10] The General Division also considered the Claimant’s argument that it was not her fault that she was separated from her employment.<sup>4</sup> The Claimant made this argument before the General Division. The repetition of this argument is not a ground of appeal under the DESD Act. Leave to appeal cannot be granted on this basis.

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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> General Division decision at para. 13

## CONCLUSION

[11] Leave to appeal is refused for these reasons.

Valerie Hazlett Parker  
Member, Appeal Division

REPRESENTATIVE:	Z. G., Self-represented
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