



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. P. v Canada Employment Insurance Commission*, 2019 SST 1257

Tribunal File Number: AD-19-625

BETWEEN:

M. P.

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 26, 2019

DECISION AND REASONS

DECISION

[1] Leave to appeal is refused.

OVERVIEW

[2] M. P. (Claimant) left his job when he was suspended for not attending a shift. He applied for regular Employment Insurance benefits (EI). The Minister of Employment and Social Development decided that the Claimant was disqualified from receiving EI because he voluntarily left his employment without just cause.

[3] The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal because it also decided that the Claimant had voluntarily left his employment without just cause since he had alternatives to leaving his employment. Leave to appeal this decision to the Tribunal's Appeal Division is refused because 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 under the *Department of Employment and Social Development Act* (DESD Act) regarding whether the Claimant quit his job.

ISSUE

[4] 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 had quit his job?

ANALYSIS

[5] 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 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.

[6] The Claimant argues that the General Division made an error because he did not quit his job when he called in after learning that he was suspended from work, but that he wanted to talk to his boss. However, the General Division decision summarizes what the Claimant says happened on the date that he left his job – that he did not attend for a scheduled shift, he phoned the employer and requested a Record of Employment, and that in documents submitted to the Tribunal, the Claimant consistently stated that he “quit” his job.³ Therefore, the General Division’s finding of fact that the Claimant quit his job was not erroneous – there is an evidentiary basis for it. 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 regarding this.

[7] I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. There is no suggestion that the General Division made an error in law or failed to observe a principle of natural justice.

CONCLUSION

[8] Leave to appeal is refused because the Claimant has not presented a ground of appeal under the DESD Act on which the appeal has a reasonable chance of success.

Valerie Hazlett Parker
Member, Appeal Division

REPRESENTATIVE:	M. P., Self-represented
-----------------	-------------------------

¹ DESD Act s. 58(1)

² DESD Act s. 58(2)

³ See General Division decision at paras. 11-15