



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *Z. G. v Canada Employment Insurance Commission*, 2019 SST 1253

Tribunal File Number: AD-19-302

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 employed in food services at a nursing home. She requested vacation time so that she could return to her country of origin to arrange for an inheritance. She then left on vacation. The Employer did not approve the vacation time, and under company policy decided that the Claimant had abandoned her job when she did not report for shifts.

[3] 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. 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's decision to the Tribunal's Appeal Division is refused because she 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 MATTER**

[4] When the Claimant left her employment the employer issued a Record of Employment that stated the reason for it was that the Claimant had quit. When the Claimant filed the Application to the Appeal Division she included a new Record of Employment that had the reason for it being issued as "other". She argued that this was new evidence that the Tribunal should consider. The Claimant was therefore given the opportunity to make an application to have the General Division decision rescinded or amended under the DESD Act.<sup>1</sup> This application was dismissed.<sup>2</sup>

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<sup>1</sup> DESD Act s. 66

<sup>2</sup> See Social Security Tribunal file no. GE-19-2513 and AD-19-629

## ISSUE

[5] Does the appeal have a reasonable chance of success based on the General Division having made an error under the DESD Act?

## 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>3</sup> In addition, leave to appeal must be refused if the appeal does not have a reasonable chance of success.<sup>4</sup> Therefore, to be granted leave to appeal a 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 wrote in the Application to the Appeal Division that she did not quit her job. The General Division decision states that a Claimant is disqualified from receiving EI if they voluntarily left their employment without just cause.<sup>5</sup> It considered the evidence, including that the Claimant made a timely request for vacation time,<sup>6</sup> that, based on all of the evidence, the employer did not approve this,<sup>7</sup> and that by not attending work for scheduled shifts the Claimant initiated her separation from employment and voluntarily left it.<sup>8</sup> The General Division gave reasons for preferring the employer's evidence to that of the Claimant. There was an evidentiary basis for the General Division's findings of fact. Therefore, there is no reasonable chance of success on appeal because the General Division based its decision that the Claimant voluntarily left her employment on an erroneous finding of fact under the DESD Act.

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<sup>3</sup> DESD Act s. 58(1)

<sup>4</sup> DESD Act s. 58(2)

<sup>5</sup> General Division decision at para. 5

<sup>6</sup> Ibid. at para. 10

<sup>7</sup> Ibid. at para. 15

<sup>8</sup> Ibid. at para. 21

[8] The General Division also considered whether the Claimant had just cause for leaving her employment. It decided, based on all of the evidence, that the Claimant did not have just cause. Again, there was an evidentiary basis for this finding, so the appeal does not have a reasonable chance of success based on the General Division having made an error in this regard.

[9] I have reviewed the General Division decision and the written record. The General Division did not overlook or misconstrue any important information. The General Division stated the relevant law correctly and applied it to the facts. There is no suggestion that the General Division failed to observe a principle of natural justice.

### **CONCLUSION**

[10] Leave to appeal is refused because the appeal does not have a reasonable chance of success based on the General Division having made an error under the DESD Act.

Valerie Hazlett Parker  
Member, Appeal Division

REPRESENTATIVES:	Z. G., Self-represented
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