



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. L. v Canada Employment Insurance Commission*, 2019 SST 1320

Tribunal File Number: AD-19-709

BETWEEN:

G. L.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Jude Samson

Date of Decision: November 7, 2019

DECISION AND REASONS

DECISION

[1] The application for leave to appeal is refused.

OVERVIEW

[2] G. L. is the Claimant in this case. He established a claim for Employment Insurance (EI) regular benefits in December 2018. The Claimant says that an agent of the Canada Employment Insurance Commission told him that he could continue to receive EI benefits while taking a course outside of Canada. As a result, the Claimant registered and attended a course in the United States. However, the Commission later refused to pay EI benefits to the Claimant while he was outside of the country.

[3] The Claimant challenged the Commission's decision to the Tribunal's General Division, but he lost his appeal. The Claimant now wants to appeal the General Division decision to the Tribunal's Appeal Division. For the file to move forward, however, he needs leave (or permission) to appeal.

[4] Unfortunately for the Claimant, I have concluded that his appeal has no reasonable chance of success. As a result, I must refuse leave to appeal. These are the reasons for my decision.

ISSUE

[5] Does the Claimant's appeal have any reasonable chance of success?

ANALYSIS

[6] The Tribunal must apply the law and follow certain procedures.¹ As a result, this appeal is following a two-step process: the leave to appeal stage and the merits stage. If the appeal has no reasonable chance of success, then it cannot advance to the merits stage.²

¹ Many of the Tribunal's procedures are set out in the *Department of Employment and Social Development Act* (DESD Act).

² This is described in sections 58(2) and 58(3) of the DESD Act.

[7] The legal test that the Claimant needs to meet at this stage is a low one: Is there any arguable ground on which the appeal might succeed?³ To decide this question, I must focus on whether the General Division could have committed one of three errors.⁴

Does the Claimant's appeal have any reasonable chance of success?

[8] The Claimant's appeal is based on the advice that he claims to have received from one of the Commission's agents. He argues that this amounts to a material misrepresentation and to the breach of a verbal contract.

[9] The General Division considered these arguments in paragraphs 31 to 33 of its decision. The Claimant has not pointed to any specific error that might be contained in these paragraphs, and no error is immediately obvious to me.

[10] When reaching its conclusion on this point, the General Division relied on a Federal Court of Appeal decision: *Granger v Canada Employment and Immigration Commission*.⁵ According to that decision, a person can only receive the benefits to which they are entitled under the *Employment Insurance Act*. This remains true even if one of the Commission's agents had told the person something different. The *Granger* decision is still good law, and the General Division had no choice but to follow it.

[11] As a result, I have concluded that the Claimant's arguments have no reasonable chance of success.

[12] In addition to the Claimant's arguments, I also reviewed the documents in the file, examined the decision under appeal, and satisfied myself that the General Division did not misinterpret or fail to properly consider any relevant evidence.⁶

³ *Osaj v Canada (Attorney General)*, 2016 FC 115 at para 12.

⁴ Section 58(1) of the DESD Act defines the three errors (or grounds of appeal) that I am able to consider.

⁵ *Granger v Canada Employment and Immigration Commission*, 1986 CanLII 3962 (FCA).

⁶ *Griffin v Canada (Attorney General)*, 2016 FC 874 at para 20; *Karadeolian v Canada (Attorney General)*, 2016 FC 615 at para 10.

CONCLUSION

[13] I sympathize with the Claimant's circumstances. Nevertheless, I have concluded that his appeal has no reasonable chance of success. As a result, I have no choice but to refuse leave to appeal.

Jude Samson
Member, Appeal Division

REPRESENTATIVE:	G. L., self-represented
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