



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. B. v Canada Employment Insurance Commission*, 2019 SST 1352

Tribunal File Number: AD-19-267

BETWEEN:

A. B.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: November 22, 2019

DECISION AND REASONS

DECISION

[1] The Tribunal refuses leave to appeal to the Appeal Division.

OVERVIEW

[2] The Applicant, A. B. (Claimant), is a truck driver. He was placed on a leave of absence by his employer after losing his driver's license. The Claimant then applied for employment insurance benefits. The Canada Employment Insurance Commission (Commission), determined that the Claimant was disqualified from receiving benefits because he had failed to prove that he had just cause for leaving his employment. The Claimant requested a reconsideration of the Commission's decision. The Commission maintained its initial decision. The Claimant appealed the Commission decision to the General Division of the Tribunal.

[3] The General Division found that it was the Claimant's own actions that led to his loss of license which then led to the need for him to take a leave of absence because he became unable to discharge his work duties. It found that the Claimant had not demonstrated just cause for voluntarily leaving his employment.

[4] The Claimant now seeks leave to appeal of the General Division's decision to the Appeal Division. He puts forward that he is struggling financially and that he needs help.

[5] A letter was sent to the Claimant asking that he explain in detail his grounds of appeal. The Claimant did not reply to the Tribunal.

[6] The Tribunal must decide whether arguably, there is some reviewable error of the General Division upon which the appeal might succeed.

[7] The Tribunal refuses leave to appeal because the Claimant's appeal has no reasonable chance of success.

ISSUE

[8] Does the Claimant raise some reviewable error of the General Division upon which the appeal might arguably succeed?

ANALYSIS

[9] Section 58(1) of the *Department of Employment and Social Development Act* (DESD Act) specifies the only grounds of appeal of a General Division decision. These reviewable errors are that the General Division: failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction; it erred in law in making its decision, whether or not the error appears on the face of the record; or it based its decision on an erroneous finding of fact that it had made in a perverse or capricious manner or without regard for the material before it.

[10] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove his case but must establish that the appeal has a reasonable chance of success based on a reviewable error. In other words, that there is arguably some reviewable error upon which the appeal might succeed.

[11] Therefore, before leave can be granted, the Tribunal needs to be satisfied that the reasons for appeal fall within any of the above mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

[12] This means that the Tribunal must be in a position to determine, in accordance with subsection 58(1) of the DESD Act, whether there is a question of natural justice, jurisdiction, law, or fact, the answer to which may lead to the setting aside of the General Division decision under review.

Does the Claimant raise some reviewable error of the General Division upon which the appeal might arguably succeed?

[13] The Claimant, in his application for leave to appeal, puts forward that he is struggling financially and that he needs help.

[14] The General Division found that Claimant voluntarily left his employment – that is, took a leave of absence – because of the loss of his driver’s license. It concluded that he did not have just cause for voluntarily leaving his employment within the meaning of the EI Act since it was the Claimant’s own actions that led to his loss of license and his subsequent leave of absence because he was unable to perform his work duties.

[15] As stated by the General Division, the *Employment Insurance Act* is intended to provide unemployment insurance for those who lose their employment through no fault of their own, and it is not intended to benefit those who lose their employment by their own actions.

[16] In his application for leave to appeal, the Claimant has not identified any reviewable errors such as jurisdiction or any failure by the General Division to observe a principle of natural justice. He has not identified errors in law nor identified any erroneous findings of fact which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[17] For the above mentioned reasons and after reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Claimant in support of his request for leave to appeal, The Tribunal finds that the appeal has no reasonable chance of success.

CONCLUSION

[18] The Tribunal refuses leave to appeal to the Appeal Division.

Pierre Lafontaine
Member, Appeal Division

REPRESENTATIVE:	A. B., Self-represented
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