



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *C. B. v Canada Employment Insurance Commission*, 2019 SST 1376

Tribunal File Number: AD-19-775

BETWEEN:

**C. B.**

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: Pierre Lafontaine

Date of Decision: November 25, 2019

## **DECISION AND REASONS**

### **DECISION**

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

### **OVERVIEW**

[2] The Applicant, C. B. (Claimant), stopped working for her employer on April 30, 2019. She waited until July 16, 2019, to file a claim for Employment Insurance benefits. The Canada Employment Insurance Commission (Commission) determined that the Claimant did not have good cause for the delay in filing her claim. The Claimant requested a reconsideration of that decision, but the Commission upheld its initial decision. The Claimant appealed the reconsideration decision to the Tribunal's General Division.

[3] The General Division determined that waiting for a Record of Employment from her employer did not constitute good cause for the delay in filing her claim for benefits. It found that a reasonable and prudent person would have taken the necessary steps to obtain information from the Commission and file a claim for benefits without delay.

[4] The Claimant now seeks leave to appeal the General Division decision. She argues that she set aside her priorities to help an aging person. The Claimant submits that she has no legal obligation to know the law and that she acted honestly and transparently.

[5] The Tribunal sent the Claimant a letter so she could explain her grounds of appeal in detail. However, she did not respond to the Tribunal's request.

[6] The Tribunal must decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[7] The Tribunal refuses leave to appeal because the Claimant has not raised a ground of appeal based on which the appeal might succeed.

## **ISSUE**

[8] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

## **ANALYSIS**

[9] Section 58(1) of the 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; erred in law in making its decision, whether or not the error appears on the face of the record; or based its decision on an erroneous finding of fact that it 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 of the case. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met at the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove her case; she must instead establish that the appeal has a reasonable chance of success. In other words, she must show that there is arguably a reviewable error based on which the appeal might succeed.

[11] The Tribunal will grant leave to appeal if it is satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

[12] This means that the Tribunal must be in a position to determine, in accordance with section 58(1) of the DESD Act, whether there is an issue of natural justice, jurisdiction, law, or fact that could lead to the setting aside of the decision under review.

**Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?**

[13] The Claimant argues that she set aside her priorities to help an aging person. She submits that she has no legal obligation to know the law and that she acted honestly and transparently.

[14] The Claimant stated to the Commission numerous times that she had delayed in filing her claim because she thought she needed her Record of Employment.<sup>1</sup>

[15] Unfortunately for the Claimant, the Federal Court of Appeal has decided on numerous occasions that claimants who delay in filing a claim because their employer failed to issue a Record of Employment or issued a Record of Employment late do not have good cause for the delay.<sup>2</sup>

[16] As the General Division decided, a reasonable and prudent person in the Claimant's situation would have taken the necessary steps to obtain information from the Commission and file a claim without delay.

[17] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for leave to appeal, the Tribunal has no choice but to find 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:	C. B., self-represented
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<sup>1</sup> GD3-21, GD3-29, and GD3-31.

<sup>2</sup> *Canada (Attorney General) v Chan*, A-185-94; *Canada (Attorney General) v Brace*, 2008 FCA 118; *Canada (Attorney General) v Ouimet*, 2010 FCA 83.

