



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *R. P. v Canada Employment Insurance Commission*, 2019 SST 1467

Tribunal File Numbers: AD-19-824
AD-19-825
AD-19-827
AD-19-829
AD-19-830

BETWEEN:

R. P.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Jude Samson

Date of Decision: December 27, 2019

DECISION AND REASONS

DECISION

[1] The applications for leave to appeal are refused.

OVERVIEW

[2] R. P. is the Claimant in this case. He owns 30% of the shares in a seasonal business. He works for that same business during the peak season. In the off-season, he applies for regular Employment Insurance (EI) benefits. The Canada Employment Insurance Commission approved the Claimant's claims for the years 2015 to 2019 and paid him EI benefits.

[3] Following an investigation, the Commission stated that the Claimant was not entitled to the benefits he had received because the Claimant did not show that he:¹

- a) was unemployed;
- b) was available for work;
- c) was making reasonable and customary efforts to find suitable employment.

[4] The Commission also imposed monetary and non-monetary penalties on the Claimant considering that he had made false or misleading statements.

[5] Even though the facts essentially repeat themselves over several years, the Commission made five decisions: a decision for each benefit period affected by his disentitlement. The Claimant disputed the Commission's decisions before the Tribunal's General Division, where five files were opened. The General Division held only one hearing, but it made five separate decisions.

[6] In summary, the General Division dismissed the Claimant's appeals, except on the issue of false or misleading statements regarding his availability and on the issue of certain penalties.

¹ The Commission imposed disentitlements on the Claimant according to sections 9, 11, 18, and 50 of the *Employment Insurance Act* and sections 9.001 and 30 of the *Employment Insurance Regulations*.

The Claimant now wants to appeal the General Division decisions to the Tribunal's Appeal Division. However, for the files to move forward, the Claimant must obtain leave to appeal.

[7] Unfortunately for the Claimant, I have found that the appeals have no reasonable chance of success. Therefore, I cannot grant him leave to appeal. These are the reasons for my decision.²

ISSUE

[8] Has the Claimant raised an arguable case on which the appeals might succeed?

ANALYSIS

[9] The Tribunal must apply the law and follow certain procedures.³ As a result, this appeal follows a two-step process: the leave to appeal stage and the merits stage. If the appeal has no reasonable chance of success, it cannot go on to the merits stage.⁴

[10] The legal test the Claimant had to meet at this stage is a low one: Is there any arguable case on which the appeals might succeed?⁵ To answer that question, I must determine whether the General Division may have made one of three relevant errors.⁶

Has the Claimant raised an arguable case on which the appeals might succeed?

[11] No, the Claimant's appeals have no reasonable chance of success.

[12] In his notices of appeal, the Claimant does little more than assert his right to EI benefits.⁷ He did not identify any specific error that the General Division may have made, and I see no error at first glance. The Claimant is attempting to reargue his case in hopes of getting a different result, but that is not the role of the Appeal Division.⁸

² A copy of this decision will be placed with each of the five relevant files.

³ Many of the Tribunal's procedures are set out in the *Department of Employment and Social Development Act* (DESD Act).

⁴ This is explained in sections 58(2) and 58(3) of the DESD Act.

⁵ *Osaj v Canada (Attorney General)*, 2016 FC 115; *Ingram v Canada (Attorney General)*, 2017 FC 259.

⁶ Section 58(1) of the DESD Act specifies the three errors (or grounds of appeal) that I must consider.

⁷ AD1-3.

⁸ *Bellefeuille v Canada (Attorney General)*, 2014 FC 963 at para 31; *Rouleau v Canada (Attorney General)*, 2017 FC 534 at para 42.

[13] The Claimant's assertions do not point to any arguable case on which the appeals might succeed. In other words, his appeals have no reasonable chance of success.

[14] In addition to the Claimant's notices of appeal, I examined the file documents, I listened to the audio recording of the General Division hearing, and I reviewed the decisions under appeal. I am therefore satisfied that the General Division did not overlook or misconstrue relevant evidence.⁹

[15] The General Division stated the applicable legal principles, summarized the most important pieces of evidence, considered the Claimant's arguments, and set out the reasons why it found that the Claimant was disentitled to EI benefits.

CONCLUSION

[16] I am sympathetic to the Claimant's circumstances. However, I find that his appeals have no reasonable chance of success. Therefore, I have no choice but to refuse his applications for leave to appeal.

Jude Samson
Member, Appeal Division

REPRESENTATIVE:	Denis Poudrier, for the Applicant
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⁹ *Griffin v Canada (Attorney General)*, 2016 FC 874 at para 20; *Karadeolian v Canada (Attorney General)*, 2016 FC 615 at para 10.