



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *J. C. v Canada Employment Insurance Commission*, 2020 SST 21

Tribunal File Number: AD-19-766

BETWEEN:

J. C.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Pierre Lafontaine

DATE OF DECISION: January 15, 2020

DECISION AND REASONS

DECISION

[1] The Tribunal allows the appeal.

OVERVIEW

[2] The Appellant, J. C. (Claimant), was employed in western Canada. He decided to leave that employment to return to New Brunswick, close to his family. The Respondent, the Canada Employment Insurance Commission (Commission), determined that the Claimant did not have just cause for voluntarily leaving his employment. The Claimant requested a reconsideration of that decision. However, the Commission upheld its initial decision. The Claimant appealed the reconsideration decision to the Tribunal's General Division.

[3] The General division found that the Claimant had failed to show that he had no reasonable alternative to voluntarily leaving. It found that the Claimant had instead made a personal choice to leave his employment to be closer to his family in New Brunswick and that he had therefore created his situation of unemployment.

[4] The Claimant was granted leave to appeal. He argues that the General Division 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. He argues that the evidence shows that he had assurance of another employment in New Brunswick before leaving his employment in western Canada.

[5] The Tribunal must determine whether the General Division erred in its interpretation of section 29(c)(vi) of the *Employment Insurance Act* (EI Act).

[6] The Tribunal allows the Claimant's appeal.

ISSUE

[7] Did the General Division err in its interpretation of section 29(c)(vi) of the EI Act?

ANALYSIS

Appeal Division's Mandate

[8] The Federal Court of Appeal has established that the mandate of the Appeal Division is conferred to it by sections 55 to 69 of the *Department of Employment and Social Development Act*.¹

[9] The Appeal Division acts as an administrative appeal tribunal for decisions rendered by the General Division and does not exercise a superintending power similar to that exercised by a higher court.

[10] Therefore, unless the General Division failed to observe a principle of natural justice, erred in law, 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, the Tribunal must dismiss the appeal.

PRELIMINARY REMARKS

[11] The Tribunal is giving the decision on the record because none of the parties attended the hearing despite having received the notice to appear.

Did the General Division err in its interpretation of section 29(c)(vi) of the EI Act?

[12] The Claimant argues that the General Division 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. He argues that the evidence shows that he had assurance of another employment in New Brunswick before leaving his employment in western Canada.

¹ *Canada (Attorney General) v Jean*, 2015 FCA 242; *Maunder v Canada (Attorney General)*, 2015 FCA 274.

[13] The Commission is of the view that the General Division erred in finding that the Claimant had not had reasonable assurance of another employment in the immediate future because the employment did not materialize. In the Commission's view, even if the new employment did not materialize, the Claimant had a formal offer of employment when he left his employment.

[14] The Tribunal listened to the recording of the General Division hearing. The Claimant specified that he had received an offer of employment from the employer X before leaving western Canada, and he argued that he was to start that work when he returned to New Brunswick. This explains why he bought a one-way plane ticket. However, when he returned, the employment did not materialize.

[15] The Federal Court of Appeal has established that the notion of reasonable assurance of another employment described in section 29(c)(vi) of the EI Act assumes three things: "reasonable assurance," "another employment," and an "immediate future."²

[16] The General Division had to determine whether the Claimant had just cause for voluntarily leaving his employment when he did.

[17] In this case, the requirements of section 29(c)(vi) of the EI Act are satisfied. The Claimant had an offer of employment when he decided to leave; he knew what employment he would have and with which employer; and he knew when in the future he would have his employment. The Claimant was reasonably assured of another employment in the immediate future and therefore had just cause for voluntarily leaving his employment.

[18] For the reasons stated above, the General Division erred in law and the appeal should be allowed.

² *Canada (Attorney General) v Lessard*, 2002 FCA 469.

CONCLUSION

[19] The appeal is allowed.

Pierre Lafontaine
Member, Appeal Division

HEARD ON:	January 15, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	None