



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. A. v Canada Employment Insurance Commission*, 2020 SST 108

Tribunal File Number: AD-20-47

BETWEEN:

R. A.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: February 14, 2020

DECISION AND REASONS

DECISION

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

OVERVIEW

[2] The Applicant, R. A. (Claimant), applied for employment insurance benefits. He declared that he quit because of harassment and discrimination in the workplace. He also had related health issues.

[3] The Canada Employment Insurance Commission (Commission) decided that he voluntarily left his employment without just cause. After reconsideration, the Commission maintained its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[4] The General Division determined that the Claimant voluntarily quit his job. It also determined that he had other reasonable alternatives to quitting his job when he did. The General Division concluded that the Claimant voluntarily left his employment without just cause.

[5] The Claimant now seeks leave to appeal of the General Division's decision to the Appeal Division. He reiterates his testimony before the General Division.

[6] The Tribunal sent a letter to the Claimant requesting that he explain in detail his grounds of appeal under section 58 of the *Department of Employment and Social Development Act* (DESD Act). He did not reply to the Tribunal's request.

[7] The Tribunal must decide whether the Claimant raised some reviewable error of the General Division upon which the appeal might succeed.

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

ISSUE

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

PRELIMINARY REMARKS

[10] The Tribunal must decide the present leave to appeal application based on the evidence submitted to the General Division. An appeal to the Appeal Division is not a new hearing. The Appeal Division's powers are limited by section 58 (1) of the DESD Act.

ANALYSIS

[11] Section 58(1) of the DESD Act specifies the only grounds of appeal of a General Division decision. These reviewable errors are that:

- (a) the General Division: failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- b) the General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- c) the General Division 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.

[12] An application for leave to appeal is a preliminary step to a hearing on the merits. The Claimant must meet this initial hurdle, but it is lower than the one of 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.

[13] In other words, 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 in appeal, in order to grant leave.

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

[14] In support of his application for leave to appeal, the Claimant essentially repeats with more details the facts he submitted to the General Division.

[15] The General Division had to determine whether the Claimant had just cause to voluntarily leave his employment. This must be determined at the time he left.

[16] Whether one had just cause to voluntarily leave an employment depends on whether he had no reasonable alternative to leaving having regard to all the circumstances.

[17] The undisputed evidence before the General Division shows that the Claimant quit his job on February 18, 2019, and that he submitted his resignation letter.

[18] The General Division considered the Claimant's evidence. He submitted that he was harassed and discriminated against by his manager and colleagues. These working conditions affected his health.

[19] The General Division determined that the Claimant did not discuss with his employer about his concerns. It also determined that he did not consult a medical practitioner or look for another job that better corresponded to his needs prior to leaving.

[20] Case law has constantly held that a claimant who is dissatisfied with his working conditions must attempt to settle the issues with the employer and seek alternative employment prior to leaving.

[21] The Claimant, in his leave to appeal application, would essentially like to represent his case. Unfortunately, for the Claimant, an appeal to the Appeal Division of the Tribunal is not a new hearing, where a party can represent evidence and hope for a new favorable outcome.

[22] In his application for leave to appeal, and after the express demand of the Tribunal, 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.

[23] 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

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

Pierre Lafontaine
Member, Appeal Division

REPRESENTATIVE:	R. A., Self-represented
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