



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. M. v Canada Employment Insurance Commission*, 2020 SST 163

Tribunal File Number: AD-20-109

BETWEEN:

R. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

Leave to Appeal Decision by: Stephen Bergen

Date of Decision: February 27, 2020

DECISION AND REASONS

DECISION

[1] The application for leave to appeal is refused.

OVERVIEW

[2] The Applicant, R. M. (Claimant), left his job because he was feeling anxious and depressed and he could not think straight. He applied for Employment Insurance benefits but the Respondent, the Canada Employment Insurance Commission (Commission), denied his claim. It found that he had voluntarily left his employment without just cause. The Claimant asked the Commission to reconsider but the Commission maintained its original decision.

[3] The Claimant appealed the reconsideration decision to the General Division of the Social Security Tribunal. The General Division dismissed his appeal. The Claimant is now asking for leave (permission) to appeal the General Division to the Appeal Division.

[4] The Claimant has no reasonable chance of success on appeal. He has not pointed to any evidence that was ignored or misunderstood and I have not discovered an arguable case that the General Division made an important error of fact.

WHAT GROUNDS CAN I CONSIDER FOR THE APPEAL?

[5] To allow the appeal process to move forward, I must find that there is a “reasonable chance of success” on one or more of the “grounds of appeal” found in the law. A reasonable chance of success means that there is a case that the Claimant could argue and possibly win.¹

[6] “Grounds of appeal” means reasons for appealing. I am only allowed to consider whether the General Division made one of these types of errors:²

¹ This is explained in a case called *Canada (Minister of Human Resources Development) v Hogervorst*, 2007, FCA 41; and in *Ingram v Canada (Attorney General)*, 2017 FC 259.

² This is a plain-language version of the three grounds. The full text is in section 58(1) of the *Department of Employment and Social Development Act* (DESD Act).

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

ISSUE

[7] Is there an arguable case that the General Division made an important error of fact by ignoring or misunderstanding the Claimant's evidence that he was experiencing depression and could not think straight?

ANALYSIS

Evidence of the Claimant's state of mind

[8] A claimant who voluntarily leaves employment is disqualified from receiving benefits unless he or she can show just cause for leaving the employment. For a claimant to have just cause, the claimant must have no reasonable alternative to leaving, when all of the circumstances are considered.³

[9] The Claimant argues that the General Division did not understand that the Claimant had no reasonable alternative to leaving because he was experiencing depression at the time that he quit. He argues that his depression prevented him from thinking properly and that he was not able to think of alternatives at the time that he quit.

[10] The General Division recognized that the Claimant was feeling anxious, depressed and that he felt he was not thinking straight.⁴ The Claimant told the General Division that his depression was aggravated by the fact that he was not getting enough sleep. He was worried about his father who was seriously ill. In addition, the Claimant worked the night shift and normally slept during the day, but his children were home during the day because it was summer break.

³ Section 29(c) of the *Employment Insurance Act* (EI Act).

⁴ General Division decision, paras. 5, 12, 20, 23.

[11] I accept that the Claimant was under stress at the time he left his job. Given his state of mind, it may have been reasonable for the Claimant to feel he had to quit. However, the law is not concerned with whether a claimant acts reasonably when he or she quits, but whether the claimant has no reasonable alternative to quitting.⁵ There was no evidence before the General Division that the Claimant had been medically diagnosed with either depression or anxiety, that he was unable to work, or that his health would have been affected if he had continued to work. Other than the Claimant's assertion that he was not thinking straight, there was no evidence that the Claimant did not know what he was doing when he quit, or that he was incapable of exploring alternatives to leaving.

[12] The General Division identified reasonable alternatives that would have been available to the Claimant at the time that he quit. These included discussing his situation with his doctor and his employer and asking to take vacation or to go on a medical leave of absence. The General Division also considered the Claimant's evidence that his father was ill and that there was tension between him and his wife because she opposed his decision to visit his father.⁶ However, these circumstances did not affect the reasonable alternatives to quitting that were available to the Claimant.

[13] I have reviewed the record that was before the General Division, and I cannot find an arguable case that the General Division ignored or misunderstood any of the evidence or that its conclusion was somehow perverse or capricious.

[14] The Claimant has no reasonable chance of success on appeal.

CONCLUSION

[15] The application for leave to appeal is refused.

⁵ *Canada (Attorney General) v. Laughland*, 2003 FCA 129.

⁶ General Division decision, para. 16, 20

Stephen Bergen
Member, Appeal Division

REPRESENTATIVES:	R. M., Self-represented
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