



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *C. M. v Canada Employment Insurance Commission*, 2020 SST 273

Tribunal File Number: GE-20-336

BETWEEN:

C. M.

Applicant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Yoan Marier

DATE OF DECISION: March 4, 2020

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] The Applicant submitted an application to rescind or amend the decision given by the Tribunal's General Division on January 6, 2020. In that decision, the General Division had dismissed the Applicant's appeal, after finding that she did not have just cause for voluntarily leaving her employment.

[3] In support of her application, the Applicant submitted a new argument, as well as letters from witnesses, colleagues, and family members concerning the situation in her workplace before she left.

PRELIMINARY MATTERS

[4] This decision is made on the record, in accordance with section 48 of the *Social Security Tribunal Regulations*. I chose to proceed this way because the information in the file is complete, a new hearing is not necessary, and this method of proceeding respects the requirement to proceed as informally and as quickly and circumstances, fairness, and natural justice permit.

ISSUE

[5] Should the decision given by the Tribunal's General Division on January 6, 2020, (File GE-19-3913) be rescinded or amended?

ANALYSIS

[6] The Tribunal's General Division may rescind or amend a decision relating to the *Employment Insurance Act* only if new facts are presented, or if it is satisfied that the decision was made without knowledge of, or was based on a mistake as to, some material fact.¹

¹ *Department of Employment and Social Development Act*, s 66.

[7] Evidence submitted as part of an application to rescind or amend a decision must meet two criteria to be considered new facts:

- a) They must have happened after the decision was made, **or** happened before the decision was made but could not have been discovered by a claimant acting diligently.
- b) They must be decisive of the issue.²

[8] On January 6, 2020, the General Division determined that the Applicant did not have just cause for voluntarily leaving her employment, because leaving was not the only reasonable alternative. The Applicant is now applying to rescind or amend that decision.

[9] In support of her application, she submitted a letter explaining why she left her employment. She also submitted letters written by witnesses, by former colleagues, and by her mother concerning the situation before she left, as well as screenshots of text messages between her and her supervisor.³

[10] I find that the Applicant's new explanations, as well as the other documents she submitted with her application, do not constitute new facts. The facts happened and were known by the Applicant well before the General Division gave its decision. Because the Applicant had the burden of demonstrating that she had just cause for leaving her employment, it was her responsibility to provide all the evidence in her possession supporting her decision to leave her employment when the General Division heard her appeal.

[11] At the first hearing, the Applicant may not have had all the letters that she included with her application, but it is likely that she could have submitted them in time if she had acted diligently. These letters only describe a situation that could very well have been provided before the General Division gave its decision.

² *Canada (Attorney General) v Chan*, A-185-94.

³ RAGD2 and RAGD3.

[12] I do not doubt the Applicant's good faith, and I believe that she is sincere when she submits that she experienced a difficult situation at work. Unfortunately, these arguments should have been presented at the beginning of the appeal process. An application to rescind or amend is not an opportunity for the Applicant to fine-tune her evidence or resubmit her file for a second opinion.

[13] I find that the evidence the Applicant submitted does not constitute new facts. Furthermore, there is no indication that the General Division made its decision without knowledge of, or based on a mistake as to, some material fact.

[14] The documents the Applicant submitted do not meet the criteria under the Act to rescind or amend the decision under review.

CONCLUSION

[15] The application to rescind or amend the January 6, 2020, General Division decision is dismissed.

Yoan Marier
Member, General Division – Employment Insurance Section

METHOD OF PROCEEDING :	On the record
APPEARANCES:	C. M., Applicant M. M., Representative for the Applicant