



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *R. L. v Canada Employment Insurance Commission*, 2020 SST 259

Tribunal File Number: AD-20-266

BETWEEN:

**R. L.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**

**Appeal Division**

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Leave to Appeal Decision by: Pierre Lafontaine

Date of Decision: March 27, 2020

## **DECISION AND REASONS**

### **DECISION**

[1] The Tribunal grants leave to appeal and allows the appeal. The matter returns to the General Division for reconsideration.

### **OVERVIEW**

[2] The Appellant, R. L. (Claimant), left his job with X and applied for employment insurance benefits. The Commission looked at the Claimant's reasons for leaving and decided that he voluntarily left his employment without just cause, so it was unable to pay him benefits.

[3] The Claimant asked the Commission to reconsider its decision on the basis that he had moved to be closer to his daughter but the Commission maintained its original decision. The Claimant appealed to the General Division of the Tribunal.

[4] The General Division found that the Claimant left his employment and that he had reasonable alternatives available to him. It found that he could have kept his job until he was able to secure employment before moving to another location.

[5] In support of his application for leave to appeal, the Claimant submits that the General Division proceeded in his absence. He submits that he did not have the opportunity to present his case to the General Division.

[6] The Tribunal must decide whether the General Division failed to observe a principle of natural justice.

[7] The Tribunal grants leave to appeal and allows the appeal. The matter returns to the General Division for reconsideration.

### **ISSUE**

[8] **Did the General Division fail to observe a principle of natural justice?**

## ANALYSIS

### **Appeal Division's mandate**

[9] The Federal Court of Appeal has determined that when the Appeal Division hears appeals pursuant to subsection 58(1) of the *Department of Employment and Social Development Act*, the mandate of the Appeal Division is conferred to it by sections 55 to 69 of that Act.<sup>1</sup>

[10] 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.<sup>2</sup>

[11] Therefore, unless the General Division failed to observe a principle of natural justice, erred in law, 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.

### **Did the General Division fail to observe a principle of natural justice?**

[12] The Claimant submits that the General Division proceeded in his absence. He submits that he did not have the opportunity to present his case to the General Division.

[13] The General Division hearing took place on January 14, 2020. The General Division had sent a notice of hearing to the Claimant on January 7, 2020. On January 28, 2020, the Claimant called the General Division staff to inquire why he did not receive at notice of hearing prior to the General Division decision. On January 29, 2020, the General Division staff received the undelivered notice of hearing addressed to the Claimant.

[14] The Commission is of the opinion that there has been a breach of natural justice. It recommends that the file return to the General Division for reconsideration.

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

<sup>2</sup> *Idem.*

[15] The Tribunal agrees that the General Division did not observe a principle of natural justice and will refer the matter back to the General Division for reconsideration.

**CONCLUSION**

[16] The Tribunal grants leave to appeal and allows the appeal. The matter returns to the General Division for reconsideration.

Pierre Lafontaine  
Member, Appeal Division

REPRESENTATIVE:	R. L., Self-represented
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