



Citation: *LP v Canada Employment Insurance Commission*, 2021 SST 404

**Social Security Tribunal of Canada  
Appeal Division**

**Leave to Appeal Decision**

**Applicant:** L. P.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated July 14, 2021 (Tribunal File Number: GE-21-1070)

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**Tribunal member:** Janet Lew

**Decision date:** August 17, 2021

**File number:** AD-21-273

## Decision

[1] The appeal filed by the Applicant, L. P. (Claimant), does not have a reasonable chance of success. For that reason, I am refusing the Claimant's application to move ahead with her appeal.

## Overview

[2] The Claimant is appealing the General Division's decision. The General Division found that the Claimant was not eligible to receive more Employment Insurance sickness benefits than she had already received. The Claimant sought an additional 11 weeks, on top of the 15 weeks that she had already received.

[3] The Claimant argues that the General Division made a mistake. She claims that there have been legislative changes and that she is now entitled to a total of 26 weeks of sickness benefits.

[4] I have to decide whether the appeal has a reasonable chance of success.<sup>1</sup> Having a reasonable chance of success is the same thing as having an arguable case.<sup>2</sup>

[5] I am not satisfied that there is an arguable case that the General Division made any errors about the number of weeks of sickness benefits to which the Claimant is entitled. Therefore, I am not giving permission to the Claimant to move ahead with her appeal. This ends the Claimant's appeal.

## Issue

[6] Is there an arguable case that the General Division made a legal error about the number of weeks of sickness benefits to which the Claimant is entitled?

## Analysis

[7] The Appeal Division must be satisfied that the appeal has a reasonable chance of success before it gives a claimant permission to go ahead with their appeal. A

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<sup>1</sup> Under section 58(1) of the *Department of Employment and Social Development Act*, I am required to refuse permission if I am satisfied, "that the appeal has no reasonable chance of success."

<sup>2</sup> See *Fancy v Canada (Attorney General)*, 2010 FCA 63.

reasonable chance of success exists if there is a certain type of error.<sup>3</sup> These errors are about whether the General Division:

- (a) Failed to make sure that the process was fair;
- (b) Failed to decide an issue that it should decided, or decided an issue that it should not have decided;
- (c) Made an error of law; or
- (d) Based its decision on an important factual error. (The error has to be perverse, capricious, or without regard for the evidence before it.)

[8] Once an applicant gets permission from the Appeal Division, they move to the actual appeal. There, the Appeal Division will decide whether the General Division made an error and, if so, will decide how to fix that error.

**Is there an arguable case that the General Division made a legal error about the number of weeks of sickness benefits to which the Claimant is entitled?**

[9] No. The Claimant does not have an arguable case that the General Division made a legal error about the number of weeks of sickness benefits to which she is entitled.

[10] The Claimant argues that the General Division made a legal error by failing to recognize that she is entitled to an additional 11 weeks of sickness benefits.

[11] The Claimant says that the Prime Minister announced legislative changes that have resulted in 11 more weeks of sickness benefits. She argues that she should be receiving these additional weeks of benefits. She notes that she needs the additional weeks of benefits because she is unwell, stressed, and experiencing hardship.

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<sup>3</sup> See section 58(1) of the *Department of Employment and Social Development Act*.

[12] The General Division acknowledged that the government announced that there would be an extension of Employment Insurance sickness benefits from 15 to 26 weeks. The General Division also noted that the law providing for the extension has not been implemented yet and that “the Claimant cannot benefit from what is not presently the law.”<sup>4</sup>

[13] The General Division did not make a legal error. Currently, the extension of sickness benefits is planned to come into effect in the summer of 2022. So, the additional weeks of sickness benefits are not available to the Claimant, or to anyone else, for that matter.

[14] The Claimant received 15 weeks of sickness benefits from October 4, 2020 to January 16, 2021, the maximum allowable weeks of sickness benefits. Neither the General Division nor the Appeal Division have any authority or any discretion to enlarge this maximum period.

[15] I have reviewed the underlying record to make sure that the General Division did not misconstrue or mischaracterize any important evidence. The General Division’s findings are consistent with the evidence before it. I also do not see any errors of law, either on the face of the record or otherwise.

[16] I am not satisfied that the Claimant has an arguable case or that the appeal has a reasonable chance of success.

## **Conclusion**

[17] The Claimant does not have an arguable case, so I am refusing the Claimant’s application. This means the Claimant will not be moving ahead to the next stage of the appeal. This ends her appeal.

Janet Lew  
Member, Appeal Division

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<sup>4</sup> General Division decision, at para. 8.