



Citation: *JF v Canada Employment Insurance Commission*, 2022 SST 82

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: J. F.

Respondent: Canada Employment Insurance Commission
Representative: G-L Bélanger

Decision under appeal: General Division decision dated November 11, 2021
(GE-21-2042)

Tribunal member: Jude Samson

Type of hearing: On the Record

Decision date: February 15, 2022

File number: AD-21-420

Decision

[1] I am allowing this appeal. I am also sending the appeal back to the General Division for reconsideration and giving directions aimed at providing a fairer process.

Overview

[2] J. F. is the Claimant in this case. He applied for Employment Insurance (EI) regular benefits. However, the Canada Employment Insurance Commission (Commission) disqualified him from receiving those benefits because he had quit a job without just cause.¹

[3] The Claimant appealed the Commission's decision to the Tribunal's General Division. The General Division dismissed the Claimant's appeal on September 22, 2021 (First General Division Decision).

[4] The Claimant then applied for leave (permission) to appeal the First General Division Decision to the Tribunal's Appeal Division. On December 2, 2021, the Appeal Division refused the Claimant's application for permission to appeal.

[5] This decision is not about the First General Division Decision or about the Appeal Division decision dated December 2, 2021.

[6] On October 20, 2021, the Claimant also applied to the General Division asking it to reopen its file based on new facts.² The General Division denied the Claimant's new facts application in a decision dated November 11, 2021 (Second General Division Decision).

[7] The Claimant is now appealing the Second General Division Decision. He argues that the General Division did not provide him with a fair process.

¹ In this context, "just cause" has a very specific meaning. It is defined in section 29(c) of the *Employment Insurance Act*.

² The Claimant's new facts application, also known as an application to rescind or amend, is document RAGD2.

[8] The Commission agrees. It recommends that the appeal be sent back to the General Division for reconsideration.³ The Claimant has not responded to this recommendation.⁴

I accept the recommended outcome

[9] The General Division received the Claimant's new facts application on October 20, 2021. The General Division wrote to the parties on October 29, 2021,

- acknowledging receipt of the Claimant's new facts application, and
- giving the parties 30 days (until November 29, 2021) to file additional documents or submissions.

[10] The Commission filed its arguments later the same day, on October 29, 2021.⁵

[11] On November 10, 2021, the Claimant wrote to the General Division asking about his options.⁶ The General Division never responded to the Claimant's email. Instead, the General Division finalized its decision on November 11, 2021, and sent it to the parties the next day.

[12] As part of this appeal, the Claimant now argues that there are documents the General Division didn't consider. He also argues that his limited access to the internet and other tools prevented him from submitting documents earlier.⁷

[13] The General Division acted unfairly towards the Claimant in this case.⁸ Specifically, the General Division finalized its decision knowing that the Claimant had questions about the General Division's process and before the end of the 30-day deadline that it had given him.

³ The Commission's arguments can be found in document AD3.

⁴ The Commission's arguments were emailed to the Claimant on January 26, 2022. He had until February 10, 2022, to respond to the Commission's arguments.

⁵ The Supplementary Representations of the Commission are document RAGD3.

⁶ The Claimant's email is document RAGD4.

⁷ The Claimant's arguments are on page AD1-4.

⁸ This relevant error allows me to intervene in this case: see section 58(1)(a) of the *Department of Employment and Social Development Act*.

[14] In the circumstances, I am rescinding (cancelling) the Second General Division decision. I am also sending the file back to the General Division for reconsideration with these directions:

- to avoid any risk of bias, the file will be assigned to a different General Division member;
- the Second General Division Decision will be removed from the materials that are provided to the new General Division member; and
- before making its decision, the General Division will provide the Claimant with an appropriate amount of time to submit additional documents and arguments (if any).⁹

Conclusion

[15] I am allowing the Claimant's appeal. The General Division acted unfairly towards him in this case. As a result, I am sending the file back to the General Division for reconsideration by a different member and giving directions aimed at promoting a fair process.

Jude Samson
Member, Appeal Division

⁹ The Claimant notes on page AD1-4 that he has limited access to the internet and to other tools needed for submitting documents.