



[TRANSLATION]

Citation: *CL v Canada Employment Insurance Commission*, 2022 SST 110

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: C. L.
Representative: G. Marc Henry

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated
December 14, 2021 (GE-21-2095)

Tribunal member: Pierre Lafontaine

Decision date: March 3, 2022
File number: AD-22-31

Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

Overview

[2] The Applicant (Claimant) left his job of 15 years. He explained that he had left his job to move to the Gaspé, the home region of his partner, who was retiring and wanted to settle there. The Respondent, the Canada Employment Insurance Commission (Commission), decided that the Claimant voluntarily left (or chose to quit) his job without just cause.

[3] The Commission also decided that the Claimant was disentitled to Employment Insurance (EI) regular benefits as of May 3, 2021, because he was not available for work. After reconsideration, the Commission upheld the initial decision. The Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left his job. It found that the decision to move to follow his partner was a personal choice, not an obligation. The General Division determined that the Claimant made no effort to find a job before moving and that he did not have assurance of another job when he left the one he had. It decided that the Claimant did not have just cause for leaving his job when he did.

[5] The Claimant now seeks leave from the Appeal Division to appeal the General Division decision. He argues that he followed his partner to preserve the family unit. The Claimant says that he had no reasonable alternative in the circumstances. He says that the General Division made an error by requiring assurance of another job before he left.

[6] I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[7] I am refusing leave to appeal because the Claimant has not raised a ground of appeal based on which the appeal has a reasonable chance of success.

Issue

[8] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

Analysis

[9] Section 58(1) of the *Department of Employment and Social Development Act* specifies the only grounds of appeal of a General Division decision. These reviewable errors are the following:

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.

[10] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met at the hearing of the appeal on the merits. At the leave to appeal stage, the Claimant does not have to prove his case; he must instead establish that the appeal has a reasonable chance of success—in other words, that there is arguably a reviewable error based on which the appeal might succeed.

[11] I will grant leave to appeal if I am satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

[12] The Claimant argues that he had just cause for leaving his job given the obligation to accompany his partner to another residence. His partner wanted to retire in the Gaspé. The move was planned a year in advance. So, he left his job to continue his

relationship and avoid a divorce. The Claimant argues that he had no reasonable alternative to leaving his job when he did. He says that the General Division made an error by requiring assurance of another job before he left.

[13] The General Division found that the decision to move to follow his partner was a personal choice, not an obligation. The General Division determined that the Claimant made no effort to find a job before moving and that he did not have assurance of another job when he left the one he had. It decided that the Claimant did not have just cause for leaving his job when he did.

[14] The evidence shows that the Claimant moved because his partner wanted to retire in the Gaspé. The partner was not transferred or otherwise obligated to move to the Gaspé.

[15] The Claimant's decision to move to the Gaspé was strictly personal because he and his partner had decided to move so that the latter could retire in her home region.

[16] It is settled law that the Claimant's reasons for voluntarily leaving his job—moving for personal reasons—do not amount to just cause under the law.

[17] In addition, the Claimant did not look for a job before leaving his job of 15 years, even though he had made his decision a year before the move. This means that the Claimant did not meet his obligation to demonstrate that he had at least made efforts to seek alternative employment before making a unilateral decision to quit his job.

[18] Concerning the obligation to follow his partner, the partner's decision to move cannot be based on purely personal reasons (retirement) but has to be related to a job (for example, transfer) or for other reasons (for example, health) that leave no other reasonable alternative.

[19] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for leave to appeal, I find that the appeal has no reasonable

chance of success. The Claimant has not raised any question of fact, law, or jurisdiction that could justify setting aside the decision under review.

Conclusion

[20] Leave to appeal is refused. The appeal will not proceed.

Pierre Lafontaine
Member, Appeal Division