



Citation: *ZC v Canada Employment Insurance Commission*, 2022 SST 231

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant: Z. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 21, 2022
(GE-22-170)

Tribunal member: Jude Samson

Decision date: April 8, 2022

File number: AD-22-138

Decision

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

Overview

[2] Z. C. is the Claimant in this case. The Canada Employment Insurance Commission (Commission) refused to pay her Employment Insurance (EI) regular benefits for two main reasons:

- she was outside of Canada from May to October 2021;¹ and
- in October 2021, she didn't have enough insurable hours to start a new claim for EI benefits.²

[3] The Claimant appealed the Commission's decision to the Tribunal's General Division. But the General Division dismissed her appeal.

[4] The Claimant now wants to appeal the General Division decision to the Tribunal's Appeal Division. She is arguing that the General Division overlooked her special circumstances. For example, she worked on the front lines of the COVID-19 pandemic. Plus, she had benefits remaining from her first benefit period but was unable to use them. Specifically, she left the country to attend to a family emergency, and pandemic-related travel restrictions delayed her return to Canada.

[5] I too sympathize with the Claimant's difficult circumstances. However, I've found that her appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal.

¹ Section 37(b) of the *Employment Insurance Act* (EI) says that people outside the Country don't qualify for EI benefits.

² In her qualifying period, the Claimant had zero hours of insurable employment instead of the 420 hours that she needed.

Issue

[6] This decision focuses on one issue: Is there an arguable ground on which the Claimant’s appeal might succeed?

Analysis

[7] Most Appeal Division files follow a two-step process. This appeal is at step one: permission to appeal.

[8] The legal test the Claimant needs to meet at this step is low: Is there any arguable ground on which the appeal might succeed?³ If the appeal has no reasonable chance of success, then I must refuse permission to appeal.⁴

[9] To decide this question, I focused on whether the General Division could have made a relevant error.⁵

There is no arguable ground on which the Claimant’s appeal might succeed

[10] The General Division had to decide whether the Claimant qualified for EI benefits based on all the legal requirements.

[11] Some of the Claimant’s arguments sound as though she is arguing that—given her special circumstances—the General Division should have found a way to bend some of those requirements so that she could be paid EI benefits.

[12] Alas, the General Division has no power to overlook the relevant legal requirements, even in compassionate and deserving cases.

[13] This argument has no reasonable of success.

³ This legal test is described in cases like *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12 and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.

⁴ This is the legal test described in section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

⁵ The relevant errors, formally known as “grounds of appeal,” are listed under section 58(1) of the DESD Act.

[14] Viewed from a different angle, the Claimant also seems to be arguing that the General Division didn't consider all the issues that she had raised. Specifically, she argued that her special circumstances ought to justify reactivating or extending her first claim for EI benefits (that is, the one from September 2020 to September 2021).

[15] I share the Claimant's concern about how this question might have gone unanswered (by the Commission and by the General Division). However, it does not give the Claimant's appeal a reasonable chance of success.

[16] First, the General Division's jurisdiction was limited to the issues that the Commission decided in its reconsideration decision.⁶ Since the Commission didn't make a decision about resuscitating or extending the Claimant's first EI claim, the General Division couldn't decide that issue either.

[17] Second, the Claimant hasn't pointed to any legal provision in support of her argument. Similarly, I am not aware of any provision that allows the extension of a benefit period in these circumstances, even among the temporary measures introduced in response to the COVID-19 pandemic.

[18] As a result, this argument has no reasonable chance of success.

[19] Aside from the Claimant's arguments, I also reviewed the file, listened to the audio recording of the General Division hearing, and examined the General Division decision.⁷ The General Division summarized the law and used evidence to support its decision. I did not find evidence that the General Division might have ignored or misinterpreted.

⁶ The Commission's reconsideration decision starts on page GD3-56.

⁷ The Federal Court has said that I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

Conclusion

[20] I have concluded that the Claimant's appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal. This means that the appeal will not proceed.

Jude Samson
Member, Appeal Division