



[TRANSLATION]

Citation: *JB v Canada Employment Insurance Commission*, 2022 SST 438

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** J. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated February 14, 2022  
(GE-21-337)

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**Tribunal member:** Jude Samson

**Decision date:** May 27, 2022

**File number** AD-22-184

## **Decision**

[1] Permission (leave) to appeal is refused. The appeal won't proceed.

## **Overview**

[2] J. B. is the Claimant in this case. He applied for Employment Insurance (EI) regular benefits. The Canada Employment Insurance Commission (Commission) denied his application saying that he quit his job without just cause and that he wasn't available for work.

[3] The Claimant appealed the Commission's decisions to the Tribunal's General Division, but it dismissed his appeal. The Claimant now wants to appeal the General Division decision to the Appeal Division. Before the case can move forward, I must first decide whether to give permission to appeal.

[4] I have found that the Claimant's appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal.

## **Issue**

[5] In this decision, the issue before me is this: Has the Claimant raised an arguable case on which the appeal might succeed?

## **Analysis**

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

[7] The legal test that the Claimant needs to meet at this step is low: Has he raised an arguable case on which the appeal might succeed?<sup>1</sup> If the appeal has no reasonable chance of success, then I must refuse permission to appeal.<sup>2</sup>

### **The Claimant hasn't raised an error based on which the appeal might succeed**

[8] The General Division found that the Claimant is disqualified from receiving EI benefits because he left his job as a truck driver voluntarily and without just cause.<sup>3</sup> Also, the Claimant isn't entitled to EI benefits because he wasn't available for work.<sup>4</sup>

[9] At the General Division, the Claimant argued that his main job was in farming. This employer laid him off in October 2019 because of a shortage of work.

[10] Also, the Claimant sometimes worked as a truck driver. He asked this employer to give him a Record of Employment; then, he didn't tell it his availability.

[11] The General Division found that the Claimant chose to work a seasonal job when he could have worked full-time as a truck driver. Even though the Claimant has the right to choose what to work in, the General Division found that he could not make program contributors pay the costs of a personal choice.

[12] In his notice of appeal, the Claimant argues that the General Division misunderstood what his main job was; he considers himself a farmer rather than a truck driver.

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<sup>1</sup> See *Osaj v Canada (Attorney General)*, 2016 FC 115; and *Ingram v Canada (Attorney General)*, 2017 FC 259.

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

<sup>3</sup> See sections 29 and 30 of the *Employment Insurance Act* (EI Act).

<sup>4</sup> See sections 18(1)(a) and 50(8) of the EI Act.

[13] I find that the Claimant just repeats the same arguments that the General Division already considered.<sup>5</sup> His main job isn't in dispute.

[14] The Appeal Division can intervene in this case only if the General Division made an error set out in the law.<sup>6</sup> Without a possible error related to those set out in the law, the Claimant's appeal has no reasonable chance of success. It is bound to fail.

[15] Regardless of this finding, I can't just look at the specific ground of appeal that the Claimant has raised.<sup>7</sup> So, I have reviewed the documents on file and the decision under appeal. But, I haven't noted other reasons to give permission to appeal.

## Conclusion

[16] I have decided 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 won't proceed.

Jude Samson  
Member, Appeal Division

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<sup>5</sup> In *Bellefeuille v Canada (Attorney General)*, 2014 FC 963 at paragraph 31, the Federal Court says that the possibility that the evidence might be assessed more favourably upon an appeal doesn't justify granting leave to appeal.

<sup>6</sup> These errors (or "grounds of appeal") are listed under section 58(1) of the DESD Act.

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