



Citation: *DD v Canada Employment Insurance Commission*, 2022 SST 557

**Social Security Tribunal of Canada
Appeal Division**

Leave to Appeal Decision

Applicant:	D. D.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated March 29, 2022 (GE-22-272)
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Tribunal member:	Jude Samson
Decision date:	June 24, 2022
File number:	AD-22-266

Decision

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

Overview

[2] D. D. is the Claimant in this case. He first applied for Employment Insurance (EI) regular benefits in November 2020. However, the Canada Employment Insurance Commission (Commission) refused to pay the Claimant benefits at that time because it understood that he was planning to start his own business.

[3] The Claimant reapplied for benefits in July 2021. This time the Commission agreed to pay him benefits.

[4] On the one hand, the Claimant says that, in July 2021, the Commission agreed to pay him 50-or-so weeks of benefits. However, his benefits stopped in November 2021, after just 19 weeks. The Claimant argues that he is entitled to more benefits and that he desperately needs these additional benefits.

[5] On the other hand, the Commission argues that it had to stop paying benefits to the Claimant in November 2021, because he had reached the end of his benefit period.

[6] The Claimant appealed the Commission's decision to the Tribunal's General Division. But it dismissed his appeal. The Claimant now wants to appeal the General Division decision to the Tribunal's Appeal Division, but he needs permission for his file to move forward.

[7] I have great sympathy for the Claimant's circumstances. However, I've found that his appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal.

Issue

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

Analysis

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

[10] The legal test that the Claimant needs to meet at this step is low: Is there any arguable ground on which the appeal might succeed?¹ If the appeal has no reasonable chance of success, then I must refuse permission to appeal.²

[11] To decide this question, I focused on whether the General Division could have made a relevant error.³

The appeal has no reasonable chance of success

[12] In its decision, the General Division explained how the Commission could only pay benefits to the Claimant during his benefit period, which stretched from November 2020 to November 2021. This remains true regardless of whether the Claimant received all the weeks of benefits to which he was entitled.

[13] The General Division then went on to consider whether it could:

- extend the Claimant's benefit period; or
- cancel one benefit period and start a new one.

[14] Unfortunately for the Claimant, the General Division found that the law prevented it from doing either of these things.

[15] The Claimant hasn't really pointed to any errors in the General Division decision. Instead, he simply says that he desperately needs the benefits that the Commission told

¹ 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.

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

³ The relevant errors, formally known as "grounds of appeal," are listed under section 58(1) of the *Department of Employment and Social Development Act*.

him he could receive. However, this is not a reason the law recognizes. I cannot give the Claimant permission to appeal because of his financial troubles.

[16] Regardless of the sympathy that I have for the Claimant, I cannot bend the legal requirements that apply to his case. Instead, I have to apply the law as it's written, even if the Claimant is in dire financial need, and even if the Commission misinformed him about his benefits.⁴

[17] In the circumstances, the Claimant's appeal has no reasonable chance of success.

[18] Aside from the Claimant's arguments, I also reviewed the file and examined the General Division decision.⁵ The General Division summarized the law and used evidence to support its decision. I didn't find any other reasons for giving the Claimant permission to appeal.

[19] Before closing, I would refer the Claimant again to the summary of a case conference that I provided on June 17, 2022 (AD2). Given the steps that the Claimant has taken, and the significant confusion in this file, I would urge the Commission to consider the Claimant's reconsideration request (if he makes one), even if it's late. The Commission's December 17, 2020, decision seems to have been based on an idea that the Claimant had about starting his own business. Ultimately, however, the Claimant said that that idea never came to be.

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

⁴ See *Nadji v Canada (Attorney General)*, 2016 FC 885 at paragraph 13.

⁵ 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.