



Citation: *LM v Canada Employment Insurance Commission*, 2022 SST 585

Social Security Tribunal of Canada Appeal Division

Decision

Applicant: L. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated May 20, 2022
(GE-22-1081)

Tribunal member: Shirley Netten

Decision date: July 7, 2022

File number: AD-22-358

Decision

[1] Leave to appeal is granted, and the appeal is allowed. The matter will go back to the General Division for reconsideration by a different member.

Background

[2] The Claimant, L. M., quit his job in X so that he could return to X to be with his spouse. The Canada Employment Insurance Commission (Commission) disqualified him from receiving employment insurance (EI) benefits because he had quit his job without just cause.¹

[3] The Social Security Tribunal's General Division dismissed the Claimant's appeal. The General Division said that the Claimant had reasonable alternatives to leaving his job,² including trying harder to find work closer to home first and requesting a temporary leave from his job to be with his spouse. However, the General Division did not fully explore with the Claimant how realistic or reasonable these options were, because the hearing ended abruptly.

The parties agree on the outcome of the appeal

[4] The Claimant and the Commission agree that the General Division proceeded in a way that was unfair, by closing the hearing without giving the Claimant a full opportunity to be heard. The Commission proposes, and the Claimant reluctantly accepts, that the matter should go back to the General Division for a new hearing by a different member.

I accept the proposed outcome

[5] One of the grounds of appeal to the Appeal Division is that the General Division failed to observe a principle of natural justice.³ Those principles are about procedural

¹ See section 30(1) of the *Employment Insurance Act*.

² The basic test for having "just cause" to quit your job is having "no reasonable alternative to leaving or taking leave, having regard to all the circumstances." See section 29(c) of the *Employment Insurance Act*.

³ Section 58(1)(a) of the *Department of Employment and Social Development Act*.

fairness, including the right to be heard. Although the Claimant was agitated during the teleconference hearing and insulted the General Division member, the member ought not to have closed the hearing without warning and without providing the Claimant with another means to be heard (whether in writing, or at a reconvened hearing).

[6] The General Division went on to make a decision about the Claimant's alternatives to quitting, without hearing all of the Claimant's evidence about these alternatives. Because this evidence wasn't fully provided to the General Division, and because the Appeal Division can't hear new evidence about the claim, I can't decide the question of just cause (or EI benefit entitlement) myself. The matter must go back to the General Division for reconsideration.

[7] When this matter returns to the General Division, the Claimant would benefit (if possible) from the Tribunal's navigation service for self-represented appellants, including links to organizations that may be able to help him with his appeal. The Claimant has repeated his request for an oral hearing at the General Division.

Conclusion

[8] Leave to appeal is granted, and the appeal is allowed. The General Division acted in a way that was procedurally unfair. The matter will go back to the General Division for reconsideration by a different member.

Shirley Netten
Member, Appeal Division