



[TRANSLATION]

Citation: *AC v Canada Employment Insurance Commission*, 2022 SST 1020

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Appellant: A. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated
August 30, 2022 (GE-22-1471)

Tribunal member: Jude Samson

Hearing date: October 14, 2022

File number: AD-22-662

Decision

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

Overview

[2] A. C. is the Claimant in this case. He made an error on his application for Employment Insurance benefits. But, nobody says that he claimed benefits fraudulently. On the contrary, he quickly contacted the Canada Employment Insurance Commission (Commission) to tell it about his error.

[3] But, the Commission took over a year to make the correction to the Claimant's file. So, he was overpaid two weeks of regular benefits. This led to the Claimant having a debt in his account. But the Claimant says that he can't work for medical reasons and that he can't afford to repay this debt.

[4] The Claimant appealed the Commission's decision to this Tribunal's General Division. It dismissed the appeal for the following reasons:

- The Claimant got the maximum number of weeks of sickness benefits he was entitled to.
- The Commission can ask for the amount owing no matter how long it took the correction to be made to the Claimant's file.
- The Tribunal doesn't have jurisdiction to make a decision on the issue of writing off an overpayment.

[5] The Claimant now wants to appeal the General Division decision to the Appeal Division. Before the case can move forward, I have to first decide whether to give permission to appeal.

[6] I find that the appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal.

Issue

[7] This decision focuses on the following issue: Could the General Division have made an error when it found that it didn't have jurisdiction to deal with an issue relating to the write-off of an overpayment?

Analysis

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

[9] The legal test that the Claimant needs to meet at this step is low: Has he raised an arguable case that gives the appeal a reasonable chance of success?¹ If the appeal has no reasonable chance of success, then I have to refuse permission to appeal.²

The appeal has no reasonable chance of success

[10] In his notice of appeal, the Claimant just disputes the General Division's finding that it didn't have jurisdiction to make a decision on writing off an overpayment.

[11] The General Division's reasons on this point are at paragraphs 22 to 28 of its decision. In short, the Tribunal only has jurisdiction to review reconsideration decisions made by the Commission. But, the Commission's decisions on the issue of overpayment aren't subject to review.³ This means that the Tribunal can't review these decisions.

[12] The Claimant hasn't made any arguments about a relevant error made by the General Division when it comes to the limits of the Tribunal's jurisdiction.⁴ He reiterated

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

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

³ See sections 112, 112.1, and 113 of the *Employment Insurance Act*.

⁴ The relevant errors (or "grounds of appeal") are listed under section 58(1) of the DESD Act.

that the Commission made an error when it processed his file and that he can't repay his debt. Unfortunately, the law doesn't allow me to consider these arguments.

[13] In its decision, the General Division explained the limits of its powers clearly and persuasively. It cited the relevant provisions of the law. In addition, Federal Court decisions support its conclusion.⁵ The Tribunal is bound to follow these decisions.

[14] As a result, I find that the Claimant's argument 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.⁶ 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 find that the Claimant's appeal has no reasonable chance of success. I have no choice, then, but to refuse permission to appeal.

[17] I would close by saying that I understand the Claimant's disappointment. The Tribunal gave him information on other steps he can take to have his debt written off.

Jude Samson
Member, Appeal Division

⁵ See paragraph 35 of *Arksey v Canada (Attorney General)*, 2019 FC 1250, and paragraphs 16 and 35 of *Smith v Canada (Attorney General)*, 2020 FC 1192.

⁶ The Federal Court has said that I have to do this in *Griffin v Canada (Attorney General)*, 2016 FC 874; and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.