



Citation: *DC v Canada Employment Insurance Commission*, 2022 SST 1064

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: D. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated October 3, 2022
(GE-22-2390)

Tribunal member: Neil Nawaz

Decision date: October 20, 2022

File number: AD-22-717

Decision

[1] Permission to appeal is refused. The appeal will not be going forward.

Overview

[2] The Claimant applied for what he understood would be a salaried supervisory position at a new manufacturing facility. Construction of the facility was delayed and, on completion, the Claimant was instead offered a general labour contract that paid little better than minimum wage. Nevertheless, he accepted the contract to “get a foot in the door” and in the expectation that he would be moved to a salaried position. He quit six weeks into the job, when it became clear that a promotion wasn’t coming anytime soon.

[3] The Claimant applied for employment insurance (EI) benefits. The Canada Employment Insurance Commission (Commission) decided that he wasn’t entitled to benefits because he had voluntarily left his job without just cause.

[4] The Claimant appealed the Commission’s decision to the Social Security Tribunal. The Tribunal’s General Division held a hearing by teleconference and dismissed the appeal. It agreed with the Commission that the Claimant had voluntarily left his job without just cause. It also found that the Claimant had reasonable alternatives to leaving his job—he could have continued working with his employer until a promotion became available or until he secured employment elsewhere.

[5] The Claimant requested permission to appeal the General Division’s decision. He alleges that the General Division failed to appreciate that the benefits in question were earned through his previous engineering job, which permitted him to work from home. He said that he was laid off from that job when his employer ended its policy of allowing its employees to work remotely. That meant he had to look for a new job in a province that didn’t have many opportunities for someone with his qualifications.

[6] I have decided to refuse the Claimant permission to appeal because his appeal has no reasonable chance of success.

Issue

[7] There are four grounds of appeal to the Appeal Division. A claimant must show that the General Division

- proceeded in a way that was unfair;
- acted beyond its powers or refused to use them;
- interpreted the law incorrectly; or
- based its decision on an important error of fact.¹

An appeal can proceed only if the Appeal Division first grants leave, or permission, to appeal.² At this stage, the Appeal Division must be satisfied that the appeal has a reasonable chance of success.³ This is a fairly easy test to meet, and it means that a claimant must present at least one arguable case.⁴

[8] I had to decide whether any of the Claimant's reasons for appealing fall within one or more of the above-mentioned grounds of appeal and, if so, whether they raise an arguable case.

Analysis

[9] The Claimant argues that the General Division should have awarded him EI benefits based on the termination of his previous job as a work-from-home engineer. However this Tribunal does not have the authority to consider the Claimant's reasons for leaving that job. This is because his EI application, and therefore this appeal, originates from his leaving his next job as a non-salaried production worker.

[10] The Claimant disagrees with the General Division's decision, but that is not enough to succeed at the Appeal Division. A claimant must also identify specific errors that the General Division made in coming to its decision and explain how those errors, if any, fit into the one or more of the four grounds of appeal.

¹ See *Department of Employment and Social Development Act* (DESDA), section 58(1).

² See DESDA, sections 56(1) and 58(3).

³ See DESDA, section 58(2).

⁴ See *Fancy v Canada (Attorney General)*, 2010 FCA 63.

[11] An appeal at the Appeal Division is not meant to be a “redo” of the General Division hearing. It is not enough to present the same evidence and arguments to the Appeal Division in the hope that it will decide your case differently.

[12] One of the General Division’s roles is to establish facts. In doing so, it is entitled to some leeway in how it weighs evidence.⁵ In the reasons for its decision, the General Division assessed the available evidence and decided that the Claimant had reasonable alternatives to leaving.

[13] Whether a claimant has just cause to leave their employment depends on many factors. In this case, it was an uncontested fact that the Claimant left his job voluntarily. The General Division reviewed the information on file, along with the Claimant’s testimony, and concluded that the Claimant did not have to leave when he did. The General Division based this conclusion on the following factors:

- The Claimant accepted a low-wage production job knowing that he would not be eligible for a promotion until he had passed a six-month probationary period and that, even then, there was no guarantee would get a promotion;
- The Claimant may have been given false verbal assurances that he would eventually get a salaried supervisory position, but that did not change the fact that he left the job voluntarily and had alternatives to leaving when he did;
- Although he might have faced challenges in finding suitable employment, the Claimant had reasonable alternatives to the financial risks that came with quitting his job;
- The Claimant could have kept working at his less-than-ideal job until he found a better one or became eligible for a promotion; and
- The Claimant only worked at the job for less than two months—not enough time for his employer to assess his attitude and performance.

⁵ See *Simpson v Canada (Attorney General)*, 2012 FCA 82.

[14] I see nothing to suggest that the General Division acted unfairly, disregarded evidence, or misinterpreted the law by basing its decision on the above factors. As the General Division rightly noted, having a good reason to leave a job is not the same thing as having just cause to leave a job.

Conclusion

[15] For the above reasons, I find that the appeal has no reasonable chance of success. Permission to appeal is refused.

Neil Nawaz
Member, Appeal Division