



Citation: *JR v Canada Employment Insurance Commission*, 2022 SST 1452

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: J. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated October 14, 2022
(GE-22-2601)

Tribunal member: Neil Nawaz

Decision date: December 9, 2022

File number: AD-22-831

Decision

[1] Leave (permission) to appeal is refused. The appeal will not be going forward.

Overview

[2] The Applicant (Claimant) began working in a call centre in November 2020. Worried that it was threatening his mental health, he left his job in early December 2021 and applied for Employment Insurance (EI) benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that he voluntarily left his job without just cause, so it didn't have to pay him benefits. The Claimant appealed the Commission's decision to the Social Security Tribunal's General Division.

[3] The General Division found that the Claimant had voluntarily left his job without just cause. It found no evidence that his working conditions were a danger to his psychological well-being and that, even if they were, he had other reasonable alternatives to leaving his job.

[4] The Claimant is now seeking permission to appeal the General Division's decision to the Appeal Division. He argues that he had no choice but to quit his job. He alleges that the General Division did not pay enough attention to the stress that he was under at the time and how it affected his mental health issues. He maintains that he couldn't tolerate working with no end date in sight.

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

Issue

[6] 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

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

Analysis

[8] The Claimant told the General Division that he has a history of depression and anxiety. He testified that these psychological conditions began affecting his ability to do his job about a month after he was hired. He said that he was unsatisfied with his work because it wasn't challenging and it didn't engage his mind. He lost focus and started having panic attacks.

[9] The Claimant argues that the General Division ignored the effect that his job was having on his mental health. I don't see a case for this argument.

[10] An appeal to the Appeal Division is not meant to be a "redo" of the General Division hearing. Under the law governing the Appeal Division, I can only consider certain types of error that the General Division might have made in arriving at its decision. To succeed at the Appeal Division, it is not enough to simply disagree with the General Division's decision and repeat evidence that the General Division has already considered.

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] In this case, the General Division decided that the Claimant did not have just cause to voluntarily leave his employment. The General Division accepted that he had mental health issues but found he had reasonable alternatives to quitting his job, for instance:

- He could have requested leave from his employer or asked whether it was possible;
- He could have consulted a doctor or counsellor;
- He could have looked for another job while continuing to work for his employer.

[12] The General Division based these findings on the following evidence:

- The Claimant testified that he never asked his employer to transfer him to a more suitable position within the company;
- The Claimant said that he didn't talk to a doctor about impact of his job on his mental health, and he never asked his psychologist or any health professional for a note to support taking sick leave; and
- The Claimant told his employer that he was willing to continue working until the end of December 2021, which conflicted with his testimony that he quit on the spot because he couldn't stand his job any longer.

[13] In its role as fact finder, the General Division is entitled some to leeway in how it chooses to weigh the evidence. From what I can see, the General Division made a good-faith effort to sort through the available information and make rational inferences from that information. The Claimant may not agree with how the General Division considered the evidence, but that it not among the grounds of appeal permitted under the law.

Conclusion

[14] For the above reasons, I find that the appeal has no reasonable chance of success.

[15] Permission to appeal is refused.

Neil Nawaz
Member, Appeal Division