



[TRANSLATION]

Citation: *SZ v Canada Employment Insurance Commission*, 2023 SST 219

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. Z.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated
January 5, 2023(GE-22-2783)

Tribunal member: Pierre Lafontaine

Decision date: March 1, 2023

File number: AD-23-70

Decision

[1] Permission to appeal is refused. The appeal will not proceed.

Overview

[2] The Applicant (Claimant) stopped working because of a shortage of work. On January 1, 2022, he applied for Employment Insurance (EI) benefits. On January 28, 2022, he applied again. On January 23, 2022, the Respondent (Commission) established a 14-week benefit period. The Claimant says the law gives him 22 weeks of benefits. So, he appealed the decision to the General Division.

[3] The General Division found that the Claimant was entitled to 14 weeks of benefits.

[4] The Claimant seeks permission from the Appeal Division to appeal the General Division decision. He argues that he is entitled to 22 weeks of benefits.

[5] I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[6] I am refusing permission to appeal because the Claimant has not raised a ground of appeal based on which the appeal has a reasonable chance of success.

Issue

[7] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

Analysis

[8] Section 58(1) of the *Department of Employment and Social Development Act* specifies the only grounds of appeal of a General Division decision. These reviewable errors are the following:

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

[9] An application for permission to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Claimant to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant does not have to prove his case but must establish that his appeal has a reasonable chance of success. In other words, he has to show that there is arguably a reviewable error based on which the appeal might succeed.

[10] I will grant permission to appeal if I am satisfied that at least one of the Claimant's stated grounds of appeal gives the appeal a reasonable chance of success.

Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

[11] The Claimant argues that the General Division made an error because he is entitled to 22 weeks of benefits based on the unemployment rate of 6% and under when he applied for benefits.

[12] The evidence shows that, during his qualifying period, the Claimant had 609 hours of insurable employment. The unemployment rate for region X was 5.7%.

[13] As decided by the General Division, the Claimant is entitled to 14 weeks of benefits according to the Table of Weeks of Benefits (Schedule 1).¹ To be entitled to 22 weeks of benefits, the unemployment rate should have been over 10%, which is not the case. The number of weeks of benefits remains at 14 weeks whether the claim is established on January 2 or January 23, 2022.

[14] In his notice of appeal to the General Division, the Claimant mistakenly referred to the Table needed to calculate weekly insurable earnings to establish that he was entitled to 22 weeks of benefits.²

[15] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I am of the view that the appeal has no reasonable chance of success. The Claimant has not raised any issue that could justify setting aside the decision under review.

Conclusion

[16] Permission to appeal is refused. The appeal will not proceed.

Pierre Lafontaine
Member, Appeal Division

¹ See section 12(2) of the *Employment Insurance Act*, and GD4-10 – Table of Weeks of Benefits.

² See GD2-6.