



Citation: *NT v Canada Employment Insurance Commission*, 2023 SST 500

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: N. T.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 24, 2023
(GE-22-3413)

Tribunal member: Pierre Lafontaine

Decision date: April 25, 2023

File number: AD-23-241

Decision

[1] Leave to appeal is refused. This means the appeal will not proceed.

Overview

[2] The Applicant (Claimant) worked at a mill, as a planer feeder and tilt hoist operator. His children's mother asked him to help her with their four daughters, who were "having problems in school and giving their mother a hard time." His daughters lived with their mother in X, more than four hours away from him. It was too far for him to commute every day to help. So, he quit his job on April 12, 2021, and applied for Employment Insurance (EI) benefits.

[3] The Respondent (Commission) determined that the Claimant voluntarily left (or chose to quit) his job without just cause, so it couldn't pay him benefits. After an unsuccessful reconsideration, the Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left his job. It found that the Claimant did not show that he had just cause for leaving his job because he had reasonable alternatives to leaving his job. The General Division concluded that he could not receive EI benefits.

[5] The Claimant seeks leave to appeal of the General Division's decision to the Appeal Division. The Claimant submits that he has moved back from X and is living with his father. He cannot afford his own place. The Claimant submits that he will continue to fight his case because he believes he is entitled to benefits.

[6] I must decide whether the Claimant has raised some reviewable error of the General Division upon which the appeal might succeed.

[7] I refuse leave to appeal because the Claimant's appeal has no reasonable chance of success.

Issue

[8] Does the Claimant raise some reviewable error of the General Division upon which the appeal might succeed?

Analysis

[9] 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 that:

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.

[10] An application for leave 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 leave to appeal stage, the Claimant does not have to prove his case but must establish that the appeal has a reasonable chance of success based on a reviewable error. In other words, that there is arguably some reviewable error upon which the appeal might succeed.

[11] Therefore, before I can grant leave to appeal, I need to be satisfied that the reasons for appeal fall within any of the above-mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

Does the Claimant raise some reviewable error of the General Division upon which the appeal might succeed?

[12] The Claimant submits that he has moved back from X and is living with his father. He cannot afford his own place. The Claimant submits that he will continue to fight his case because he believes he is entitled to EI benefits.

[13] Whether one had just cause to voluntarily leave an employment depends on whether he had no reasonable alternative to leaving.¹

[14] The law specifically addresses the situation where a claimant leaves his employment to take care of a child or an immediate family member.²

[15] The General Division found that the Claimant left his job because his children's mother asked him to help with their four daughters, who were "having problems in school and giving their mother a hard time."

[16] The General Division found that there was no urgent need for the Claimant to quit his job immediately. It noted that the Claimant gave his employer two weeks notice. The General Division found that the Claimant could have stayed in his job while he made a genuine effort to look for another one in X. The General Division found that it was a reasonable alternative to the Claimant quitting when he did.

[17] Unfortunately for the Claimant, while the decision to leave his employment to be closer to his daughters might have been a very good decision, it is not sufficient for establishing just cause within the meaning of the law.

[18] I see no reviewable error made by the General Division. The General Division's conclusion is supported by the evidence and case law. Unfortunately, for the Claimant, an appeal to the Appeal Division is not an opportunity to re-present his evidence to obtain a different outcome.

¹ Section 29(c) of the *Employment Insurance Act*.

² Section 29(c)(v) of the *Employment Insurance Act*.

[19] After reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Claimant in support of his request for leave to appeal, I find that the appeal has no reasonable chance of success.

Conclusion

[20] Leave to appeal is refused. This means the appeal will not proceed.

Pierre Lafontaine
Member, Appeal Division