



Citation: *CB v Canada Employment Insurance Commission*, 2023 SST 605

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: C. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated January 23, 2023
(GE-22-2675)

Tribunal member: Candace R. Salmon

Decision date: May 19, 2023

File number: AD-23-147

Decision

[1] I am refusing leave (permission) to appeal. The appeal will not proceed.

Overview

[2] C. B. is the Claimant. She quit her job and applied for Employment Insurance (EI) regular benefits. The Canada Employment Insurance Commission (Commission) decided that she did not qualify for benefits because she voluntarily left her job without just cause.

[3] The Claimant appealed to the Tribunal's General Division. The General Division also decided that she was not entitled to EI benefits because she voluntarily left her job without just cause.

[4] The Claimant wants to appeal the General Division decision to the Appeal Division. She needs permission for the appeal to move forward.

[5] I am refusing permission to appeal because the Claimant's appeal has no reasonable chance of success.

Issue

[6] Has the Claimant presented a ground of appeal under the *Department of Employment and Social Development Act* (DESD Act) on which the appeal has a reasonable chance of success?¹

¹ Section 58(1) of the *Department of Employment and Social Development Act* (DESD Act) says that I must refuse permission to appeal if I find the "appeal has no reasonable chance of success." This means that I must refuse permission for the appeal to move forward if I find there's no arguable case: See *Fancy v Canada (Attorney General)*, 2010 FCA 63 at paragraphs 2 and 3.

I am not giving the Claimant permission to appeal

[7] An appeal can proceed only if the Appeal Division gives permission to appeal.² I must be satisfied that the appeal has a reasonable chance of success.³ This means that there must be some arguable ground upon which the appeal might succeed.⁴

[8] The possible grounds of appeal to the Appeal Division are that the General Division did at least one of the following:

- proceeded in a way that was unfair
- acted beyond its powers or refused to exercise those powers
- made an error of law
- based its decision on an important error of fact⁵

[9] There is no arguable case that the General Division made one of these errors. So, I must refuse permission to appeal. This means the appeal will not proceed.

The Claimant's appeal has no reasonable chance of success

[10] The Tribunal must follow the law, including the DESD Act. It provides rules for appeals to the Appeal Division. The Appeal Division does not provide an opportunity for the parties to re-argue their case. It determines whether the General Division made an error under the DESD Act.

[11] In the Claimant's first application to the Appeal Division, she requested permission to appeal but did not select any ground of appeal.⁶ On a second application form, she selected, "The General Division made an important error of fact," but did not give any examples of how it made an error.⁷ In an email, she said she is appealing its

² See section 56(1) of the DESD Act.

³ See section 58(2) of the DESD Act.

⁴ See, for example, *Osaj v Canada (Attorney General)*, 2016 FC 115.

⁵ See section 58(1) of the DESD Act.

⁶ See AD1-4 and AD1-5.

⁷ See AD1B-5.

decision because she did not have childcare. She says that she did everything she could to find childcare and was not successful.⁸

[12] The Claimant says that the General Division made an error of fact but has not pointed to any specific findings that it got wrong.

[13] The Claimant argues that she had just cause for quitting her job because she could not find childcare. But the General Division addressed the argument in its decision.⁹ She now says that she made all efforts to find childcare, “including all the ones” the General Division noted.¹⁰ I have reviewed the entire file and find the General Division addressed the Claimant’s efforts to find childcare, and see no errors in its interpretation of the evidence.¹¹

[14] Factual findings being made “without regard to the evidence” would include circumstances where there was no evidence to support a finding. Or, where the decision maker failed to reasonably account for critical evidence that went against their findings.¹² I see no evidence of this error.

[15] I am not convinced there is an arguable case that the General Division made an error. It accepted that the Claimant had an obligation to care for her child.¹³ However, it found that she did not have just cause for leaving her job when she did because there were reasonable alternatives to leaving. The General Division reviewed the reasonable alternatives and the Claimant’s evidence about why she quit her job.¹⁴

[16] While the Claimant may not agree with the General Division decision, this is not a ground of appeal under the law.

⁸ See AD1C-1.

⁹ The General Division accepted that the Claimant had the obligation to care for a child at paragraph 22 of its decision. But, at paragraph 47, it found that she had reasonable alternatives to leaving her job. It decided she did not have just cause for leaving because she had reasonable alternatives to quitting when she did.

¹⁰ See AD1C-1.

¹¹ The General Division refers to the Claimant’s evidence about childcare at paragraphs 20 through 22 of its decision. It specifically refers to her evidence about a childcare search at paragraph 44.

¹² See *Walls v Canada (Attorney General)*, 2022 FCA 47 at paragraph 41.

¹³ See paragraph 22 of the General Division decision.

¹⁴ See paragraphs 44 and 47 of the General Division decision.

There are no other reasons to give the Claimant permission to appeal

[17] The General Division explained the law when it comes to voluntary leaving and just cause in its decision.¹⁵

[18] It stated that the law says that a person is disqualified from receiving EI benefits if they left their job voluntarily and did not have just cause for leaving.¹⁶ It also explained what “just cause” means. A person has just cause to voluntarily leave their job if they had no reasonable alternative to quitting their job when they did. The General Division also noted that it had to consider all the circumstances in the case.¹⁷

[19] Many exceptions are listed in the law, though the list is not exhaustive.¹⁸ The General Division considered the listed circumstances, and all the circumstances in the case.¹⁹

[20] Other than the Claimant’s arguments, I also reviewed the complete file and examined the General Division decision. The General Division summarized the law and used evidence to support its decision. I did not find other relevant evidence that it might have ignored or misinterpreted.²⁰

[21] The General Division considered the Claimant’s other arguments and the evidence in the file.²¹ It also considered the Claimant’s circumstances when deciding to dismiss the appeal.²²

[22] I am satisfied that there is no arguable case that the General Division overlooked or misinterpreted any relevant information. It recognized the Claimant’s situation and the circumstances that existed when she quit her job. However, the General Division found

¹⁵ See paragraphs 13 to 15 of the General Division decision.

¹⁶ See *Employment Insurance Act* (EI Act), section 30.

¹⁷ See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 3; section 29(c) of the EI Act; General Division decision at paragraph 14.

¹⁸ See section 29(c) of the EI Act.

¹⁹ See General Division decision at paragraph 23.

²⁰ See *Karadeolian v Canada (Attorney General)*, 2016 FC 165 at paragraph 10.

²¹ See the “Circumstances that existed when the Claimant quit” section of the General Division decision, from paragraphs 16 to 41.

²² See paragraph 48 of the General Division decision.

that these circumstances did not meet the legal requirements to prove just cause. There is no basis for me to interfere with the General Division decision.

Conclusion

[23] Permission to appeal is refused. This means that the appeal will not proceed.

Candace R. Salmon
Member, Appeal Division