



Citation: *DK v Canada Employment Insurance Commission*, 2023 SST 617

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: D. K.
Representative: J. G.

Respondent: Canada Employment Insurance Commission
Representative: Sandy Esch

Decision under appeal: General Division decision dated November 14, 2022
(GE-22-2761)

Tribunal member: Melanie Petrunia

Type of hearing: In person
Hearing date: March 27, 2023
Hearing participants: Appellant
Appellant's representative
Respondent's representative (by teleconference)

Decision date: May 22, 2023
File number: AD-22-862

Decision

[1] The appeal is dismissed. The General Division did not make any reviewable errors.

Overview

[2] The Claimant worked two jobs during the summer of 2021. He was laid off from one of the jobs at the end of August 2021 because it was a seasonal position. The Claimant quit the other part-time job and moved to another town where he attended a carpentry program. The Claimant applied for and received employment insurance (EI) regular benefits.

[3] The Commission reviewed the claim and decided that the Claimant voluntarily left his part-time job without just cause and was disqualified from receiving benefits. The Claimant appealed this decision to the Tribunal's General Division and his appeal was dismissed. The General Division found that the Claimant did not show just cause for leaving his job and that he had reasonable alternatives to quitting when he did.

[4] The Claimant is now appealing the General Division decision. He argues that the General Division based its decision on important factual errors. He says that the General Division failed to consider that he quit his job because he had to move to another town to live with his grandmother. He could not afford rent on the income he earned from his part-time job.

[5] I am dismissing the appeal. The General Division did not make any reviewable errors when it found that the Claimant did not show just cause for voluntarily leaving his employment.

Issue

[6] The issue in this appeal is whether the General Division based its decision on a mistake about the facts when it decided that the Claimant voluntarily left his job without just cause.

Analysis

[7] I can intervene in this case only if the General Division made a relevant error. So, I have to consider whether the General Division:¹

- failed to provide a fair process;
- failed to decide an issue that it should have decided, or decided an issue that it should not have decided;
- misinterpreted or misapplied the law; or
- based its decision on an important mistake about the facts of the case.

The General Division did not base its decision on a factual error

[8] The General Division found that the Claimant did not have just cause to quit his job because there were reasonable alternatives available to him.² In making this determination, the General Division acknowledged that it had to consider all of the relevant circumstances that existed at the time that the Claimant quit.³

[9] The General Division outlined the circumstances that it had to consider. It noted that the Claimant testified that he applied to a carpentry program when he was in grade 11. He was accepted during his grade 12 year and enrolled to begin the program in September 2021.⁴

[10] The General Division found that the Claimant was not referred to the carpentry program by the Commission.⁵ It noted that the case law clearly says that leaving a job to attend school without a referral is not just cause.⁶

¹ The relevant errors, formally known as “grounds of appeal,” are listed under section 58(1) of the *Department of Employment and Social Development Act* (DESD Act).

² General Division decision at para 2.

³ General Division decision at para 17.

⁴ General Division decision at para 18.

⁵ General Division decision at para 19.

⁶ General Division decision at para 25.

[11] The General Division also considered that the Claimant wasn't earning enough from his part-time job to support himself at the time that he quit. He was only working one or two shifts per week at minimum wage.⁷ The Claimant argued that he did not have any reasonable alternatives to leaving because he wasn't earning enough to travel an hour each way from school to his job.⁸

[12] The Claimant testified that he lived with his grandmother while going to school and paid rent to her. His carpentry program was paid for by his Band Office.⁹ The Claimant applied for jobs near his school but was unable to find work.

[13] In his Notice of Appeal to the General Division, the Claimant stated that he left his job because he moved two hours away to attend college. He stated that he was only working 10 hours per week, making minimum wage. He said that he couldn't pay rent or buy food on the wage that he was earning. He moved in with his grandmother because he couldn't afford a place of his own.¹⁰

[14] The Claimant also stated that he moved to another town 2 hours away because he could no longer live with his mother. She wanted him to pay rent but he couldn't afford to with his part-time job.¹¹

[15] The General Division found that the Claimant did not have just cause for leaving his employment. It found that he had reasonable alternatives to quitting including staying in his job, asking his employer for more hours and looking for another part-time job to supplement his hours.¹²

[16] The Claimant argues that the General Division failed to consider that he could no longer afford to live with his mother on his part-time wages and therefore had to move.

⁷ General Division decision at para 26.

⁸ General Division decision at para 28.

⁹ General Division decision at para 22.

¹⁰ GD2-4

¹¹ GD2-5

¹² General Division decision at para 30.

He says that the alternatives outlined by the General Division were not reasonable and that he could not afford to continue working at his job after he moved an hour away.

[17] The Commission says that the General Division may not have referred to all of the reasons why the Claimant left his job, but the outcome would have been the same. It argues that the General Division came to the right conclusion and the appeal should be dismissed.

[18] I have listened to the hearing before the General Division. The Claimant was asked why he left his job. He stated it was because he was going to school, only working part-time and couldn't afford the gas to drive 1.5 hours to school.¹³ He said the reason he gave his employer for leaving was because he was going to school.¹⁴ The Claimant confirmed that he could have kept working at his job if he didn't go to school.¹⁵

[19] The Claimant testified that he lived with grandmother while he took his course and that he started applying to jobs near his new residence when he quit his part-time job.¹⁶

[20] I find that the General Division did not base its decision on any factual errors or fail to consider any relevant facts. The General Division noted the reasons that the Claimant gave for quitting his job when he did. The evidence is clear that the Claimant left his job because he was attending school an hour away from his work and could not afford to travel to and from his work for only one or two shifts per week.

[21] The Claimant argues that he could not afford to remain living with his mother because she wanted him to pay rent and this reason for relocating was not considered by the General Division. However, the Claimant indicated in the hearing that he was also paying rent to his grandmother while he attended school.

¹³ Recording of hearing before the General Division at 8:30.

¹⁴ Recording of hearing before the General Division at 9:00.

¹⁵ Recording of hearing before the General Division at 9:40.

¹⁶ Recording of hearing before the General Division at 18:00.

[22] The fact that he had could not afford to pay rent to his mother may have factored into his decision to move, but the evidence clearly shows that he intended to start his program in September. He told his employer that he was leaving his job to attend school.

[23] The General Division properly cited the law concerning voluntary leaving. It relied on the fact that the Claimant had reasonable alternatives such as remaining employed. It considered and weighed the facts before it. The finding that the Claimant did not have just cause for leaving his employment is supported by the evidence.

[24] As the General Division noted, the case law has clearly established that leaving a job to attend school may be a very good reason, but it does not amount to just cause as required by the EI Act.¹⁷

[25] I understand that the result in this case is harsh for the Claimant. He had good reason to leave his job and attend his carpentry program. Unfortunately, the Tribunal must apply the law and is bound by decisions of the Federal Court and the Federal Court of Appeal.

[26] I find that the General Division did not base its decision on any factual errors or make an error of law. Having found that the General Division did not make any reviewable errors, I am dismissing the appeal.

Conclusion

[27] The appeal is dismissed. The General Division did not make any reviewable errors.

Melanie Petrunia
Member, Appeal Division

¹⁷ See *Canada (Attorney General) v. Connell*, 2003 FCA 144 at para 2; *Canada (Attorney General) v. Caron*, 2007 FCA 204 at para 2.