



Citation: *MR v Canada Employment Insurance Commission*, 2023 SST 766

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant: M. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 15, 2023
(GE-23-424)

Tribunal member: Pierre Lafontaine

Decision date: June 13, 2023

File number: AD-23-359

Decision

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

Overview

[2] The Applicant (Claimant) left his job as a painter on August 17, 2022 and applied for EI benefits. He said the employer did not provide him with adequate protective equipment and he developed health issues. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it could not pay him benefits. After an unsuccessful reconsideration, the Claimant appealed to the General Division.

[3] The General Division found that the Claimant voluntarily left his job. It found that the employer did provide adequate protection and that the Claimant did not have any special medical conditions when he chose to quit his job. The General Division found that the Claimant did not demonstrate that he had just cause for leaving his job because he had reasonable alternatives to leaving his job. The General Division concluded that he did not have just cause to leave his job when he did.

[4] The Claimant seeks leave to appeal of the General Division's decision to the Appeal Division. The Claimant submits that the General Division made an error when it decided that his workplace was safe and that he was not sick. The General Division only listened to the employer. The Claimant feels he is a victim of racial discrimination.

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

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

Issue

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

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 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.

[9] 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.

[10] 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?

[11] The Claimant submits that the General Division made an error when it decided that his workplace was safe and that he was not sick. The General Division only listened to the employer. The Claimant feels like he is a victim of racial discrimination.

[12] Whether one had just cause to voluntarily leave an employment depends on whether they, having regard to all the circumstances, had no reasonable alternative to leaving.

[13] The General Division found that the Claimant voluntarily left his job. It found that the employer did provide adequate protection and that the Claimant did not have any special medical conditions when he chose to quit his job. The General Division found that the Claimant did not demonstrate that he had just cause for leaving his job because he had reasonable alternatives to leaving his job. The General Division concluded that he did not have just cause to leave his job when he did.

[14] Faced with conflicting statements, the General Division preferred the employer's version supported by three individuals that it always provides protective gear to its employees. The General Division also found that the Claimant did not provide any evidence to support his statement that his working conditions were causing him to have health issues.

[15] The General Division found that the Claimant's credibility was seriously affected by the fact that the Claimant had initially misinformed the Commission when he stated that he had consulted a doctor because of his working conditions prior to quitting his job. He later admitted that he only saw a doctor after he had quit.

[16] The General Division further found that the Claimant had other reasonable alternatives. He could have contacted the Health and Safety Board or consulted a doctor before quitting his job.

[17] I see no reviewable error made by the General Division. The General Division's conclusion is supported by the evidence and case law. Nothing would justify my intervention regarding the Claimant's credibility, as it was evaluated by the General Division.

[18] Unfortunately, for the Claimant, an appeal to the Appeal Division is not a new opportunity to re-present his evidence to obtain a different outcome.

[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