



[TRANSLATION]

Citation: *GG v Canada Employment Insurance Commission*, 2023 SST 1042

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: G. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated April 20, 2023
(GE-22-4090)

Tribunal member: Pierre Lafontaine

Decision date: August 3, 2023

File number: AD-23-440

Decision

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

Overview

[2] The Applicant (Claimant) applied for Employment Insurance (EI) benefits. The Respondent (Commission) determined that the Claimant took a voluntary leave of absence and that she did not have just cause.

[3] The Claimant asked the Commission to reconsider this decision. But it upheld its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[4] The General Division found that the Claimant took a leave of absence authorized by the employer and that she had no reasonable alternative to taking it when she did. It allowed the Claimant's appeal.

[5] The Claimant is asking the Appeal Division for permission to appeal the General Division's decision. She says that she wants to dispute her debt.

[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.

Preliminary remarks

[7] Since the Claimant was successful at the General Division, I called the parties to a settlement conference. The Claimant, although duly summoned, did not attend the conference. So, I will make a decision on the application for permission to appeal.

Issue

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

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 the following:

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue 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 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 her case; she must instead establish that her appeal has a reasonable chance of success. In other words, she must show that there is arguably a reviewable error based on which the appeal might succeed.

[11] I will give 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?

[12] The Claimant is asking the Appeal Division for permission to appeal the General Division's decision. She says that she wants to dispute her debt.

[13] The only issue before the General Division was a disentitlement to EI benefits imposed by the Commission for voluntarily taking a period of leave without just cause.¹

¹ See section 32 of the *Employment Insurance Act*.

[14] The General Division found that the Claimant took a leave of absence authorized by the employer and that she had no reasonable alternative to taking it when she did. It allowed the Claimant's appeal.

[15] The General Division correctly noted that it did not have before it the Commission's decisions about the Claimant's disentitlement to benefits while she was outside Canada and about her availability for work.

[16] I find that the Claimant was successful on the only issue before the General Division. This appeal is therefore moot.

[17] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

Conclusion

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

Pierre Lafontaine
Member, Appeal Division