



Citation: *HR v Canada Employment Insurance Commission*, 2023 SST 997

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: H. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated May 19, 2023
(GE-23-51)

Tribunal member: Candace R. Salmon

Decision date: July 28, 2023

File number: AD-23-584

Decision

[1] I am refusing leave (permission) to appeal because the Claimant doesn't have an arguable case. The appeal will not proceed.

Overview

[2] The Claimant is H. R. He applied for Employment Insurance (EI) regular benefits. The Canada Employment Insurance Commission (Commission) decided he couldn't establish a claim for benefits because he didn't have enough hours of insurable employment.

[3] The Tribunal's General Division dismissed the appeal because it found the Claimant didn't have enough hours of insurable employment to qualify for EI benefits.

[4] The Claimant wants to appeal the General Division decision to the Appeal Division. He 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.

Preliminary matters

[6] The Claimant applied to the Appeal Division on June 2, 2023. He said the General Division made an error of fact and didn't follow procedural fairness.¹ He did not provide any reasons to support the alleged errors.

[7] The Tribunal sent a letter to the Claimant on June 19, 2023. The letter asked him to provide reasons for his appeal. The deadline to provide reasons was June 30, 2023.

¹ See AD1-3.

[8] The Tribunal contacted the Claimant by telephone on June 21, 2023. The Claimant confirmed that he received the letter and would provide the requested information before the deadline.²

[9] As of the date of writing the Tribunal has received no further correspondence or communication from the Claimant.

Issue

[10] Is there an arguable case that the General Division made a reviewable error in this case?

Analysis

The test for getting permission to appeal

[11] An appeal can only proceed if the Appeal Division gives permission to appeal.³ I must be satisfied that the appeal has a reasonable chance of success.⁴ This means that there must be some arguable ground upon which the appeal might succeed.⁵

[12] To meet this legal test, the Claimant must establish that the General Division may have made an error recognized by the law.⁶ If the Claimant's arguments do not deal with one of these specific errors, the appeal has no reasonable chance of success and I must refuse permission to appeal.⁷

² A record of this conversation is in the file, dated June 21, 2023, at 1:54 p.m. Eastern time.

³ The *Department of Employment and Social Development Act* (DESD Act) at section 58(1) says that I must refuse leave 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 isn't an arguable case (*Fancy v Canada (Attorney General)*, 2010 FCA 63 at paragraphs 2 and 3). See also section 56(1) of the DESD Act.

⁴ See section 58(2) of the DESD Act.

⁵ See, for example, *Osaj v Canada (Attorney General)*, 2016 FC 115.

⁶ The relevant errors, formally known as "grounds of appeal," are listed under section 58(1) of the DESD Act. These errors are also explained on the Notice of Appeal to the Appeal Division.

⁷ This is the legal test described in section 58(2) of the DESD Act.

The Claimant did not identify any errors in the General Division decision

[13] On the application to the Appeal Division, the Claimant said the General Division made an error of fact and didn't follow procedural fairness. He did not provide any examples to support the alleged errors.

There are no reasons to give the Claimant permission to appeal

[14] Despite the absence of submissions in relation to potential errors in the General Division's decision, I reviewed the entire file to make sure the General Division didn't make a mistake.

[15] I reviewed the documents in the file, examined the decision under appeal, and satisfied myself that the General Division did not misinterpret or fail to properly consider any relevant evidence.⁸

[16] The General Division found that the Claimant required 420 hours of insurable employment to qualify for EI benefits, but only accumulated 338 hours.⁹ The number of accumulated hours was supported by a Canada Revenue Agency (CRA) insurability ruling. The General Division found that while the Claimant thought he accumulated more hours, the CRA ruling was binding and had to be followed.¹⁰ Since the Claimant didn't have enough hours to establish a claim, he could not receive EI benefits.

[17] There is no arguable case that the General Division made a reviewable error in this case because its findings are supported by the evidence. The Claimant's insurable hours were confirmed by an insurability ruling, and the hours were not high enough to meet the requirements to establish a claim.

[18] The Tribunal must follow the law, including the *Department of Employment and Social Development Act*. It provides rules for appeals to the Appeal Division. The

⁸ See *Karadeolian v Canada (Attorney General)*, 2016 FC 165 at paragraph 10.

⁹ See General Division decision at paragraph 13.

¹⁰ See General Division decision at paragraph 17.

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 law.

Conclusion

[19] This appeal has no reasonable chance of success. For that reason, I'm refusing permission to appeal.

[20] This means that the appeal will not proceed.

Candace R. Salmon
Member, Appeal Division