



[TRANSLATION]

Citation: *PB v Canada Employment Insurance Commission*, 2023 SST 1367

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: P. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated
September 7, 2023 (GE-23-1888)

Tribunal member: Pierre Lafontaine

Decision date: October 10, 2023

File number: AD-23-889

Decision

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

Overview

[2] The Applicant (Claimant) applied for Employment Insurance (EI) sickness benefits effective November 6, 2022. The Claimant had surgery on November 6, 2022. He was then in a motor vehicle accident on February 1, 2023, which required a long recovery. He also had another surgery on July 6, 2023.

[3] The Claimant asked that his sickness benefits be extended because he has not recovered and is not fit for work. He points out that sickness benefits are now available for up to 26 weeks and he has only received 15 weeks.

[4] The Respondent (Commission) decided that the Claimant had already received sickness benefits for the maximum period of 15 weeks from November 6, 2022, to December 3, 2022, and from April 2, 2023, to June 24, 2023. This means that the Claimant can no longer receive sickness benefits during his benefit period. The Claimant appealed to the General Division.

[5] The General Division found that the Claimant established his claim for benefits on November 6, 2022. On that date, the law says that the maximum number of weeks sickness benefits may be paid for in a benefit period is 15 weeks, in the case of illness, injury, or quarantine. It found that the Claimant had received the maximum number of weeks of sickness benefits under the law, which is 15 weeks.

[6] The Claimant seeks permission from the Appeal Division to appeal the General Division decision. He does not think the General Division made an error, but asks that the Tribunal show compassion and give him additional weeks. He points out that, one month after he applied, the law was changed to grant 26 weeks of sickness benefits.

[7] I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[8] 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.

Issue

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

Analysis

[10] 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 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.

[11] 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 his case but must establish that his appeal has a reasonable chance of success. In other words, he has to show that there is arguably a reviewable error based on which the appeal might succeed.

[12] I will grant 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?

[13] The Claimant seeks permission from the Appeal Division to appeal the General Division decision. He does not think the General Division made an error, but asks that the Tribunal show compassion and give him additional weeks. He points out that, one month after he applied, the law was changed to grant 26 weeks of sickness benefits.

[14] The Claimant established his claim for benefits on November 6, 2022. He did not work after November 6, 2022.

[15] To be entitled to 26 weeks of sickness benefits, the claim for benefits has to start on or after December 18, the date the *Employment Insurance Act* was changed.

[16] While I sympathize with the Claimant, the Act does not allow for an extension of the maximum period of sickness benefits, nor does it give the General Division or the Appeal Division the discretion to grant an extension of that period, regardless of the particular circumstances of a claimant's situation.

[17] After reviewing the appeal file, the General Division decision, and the arguments in support of the application for permission to appeal, I am of the view that the appeal has no reasonable chance of success. The Claimant has not raised any issue that could justify setting aside the decision under review.

Conclusion

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

Pierre Lafontaine
Member, Appeal Division