



Citation: *AM v Canada Employment Insurance Commission*, 2023 SST 1301

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: A. M.

Respondent: Canada Employment Insurance Commission
Representative: Melanie Allen

Decision under appeal: General Division decision dated April 13, 2023
(GE-23-661)

Tribunal member: Solange Losier

Type of hearing: In person

Hearing date: September 15, 2023

Hearing participants: Appellant
Respondent's representative

Decision date: September 28, 2023

File number: AD-23-367

Decision

[1] The Claimant's appeal is dismissed. The General Division did not make any errors that allow me to intervene in its decision.

Overview

[2] A. M. is the Claimant in this case. He worked as an assembler. He stopped working and applied for Employment Insurance (EI) regular benefits.

[3] The Canada Employment Insurance Commission (Commission) decided that he was not allowed to have EI regular benefits because he voluntarily left his job without just cause.¹

[4] The General Division came to the same conclusion.² It decided that he did not have just cause to leave his job because there were reasonable alternatives to leaving.

[5] The Claimant is now appealing to the Tribunal's Appeal Division.³ He says that the General Division made an error of jurisdiction. He argues that he had just cause to leave his job for the following reasons. He says that the working conditions were intolerable when his leg was hurting; his health was adversely affected by the working conditions; there was undue pressure to leave his job and unfair attitude by the manager and discrimination due to age.⁴

[6] I previously granted leave to appeal because there was an arguable case that the General Division might have made an error of law as it did not make any findings on whether the Claimant's employer discriminated against him due to age.⁵

[7] I am dismissing the Claimant's appeal because the General Division did not make an error of jurisdiction or an error of law when it determined that the Claimant did

¹ See reconsideration decision at page GD3-40.

² See General Division decision at pages AD1A-1 to AD1A-6.

³ See Application to the Appeal Division at pages AD1-1 to AD1-7.

⁴ See page AD1-3.

⁵ See leave to appeal decision issued August 2, 2023.

not have just cause to leave his job. It properly considered all of the Claimant's circumstances when it made its decision.

Issue

[8] Did the General Division make an error of jurisdiction or an error of law when it decided that the Claimant didn't have just cause to leave his job?

Analysis

[9] An error of jurisdiction means that the General Division didn't decide an issue it had to decide or decided an issue it did not have the authority to decide.⁶

[10] An error of law can happen when the General Division doesn't apply the correct law or when it uses the correct law but misunderstands what it means or how to apply it.⁷

[11] Any of these types of errors would allow me to intervene in the General Division decision.⁸

– Voluntary leaving without just cause

[12] The *Employment Insurance Act* (EI Act) says a claimant is disqualified from EI benefits if they voluntarily leave their employment without just cause.⁹

[13] A person has just cause for voluntarily leaving their job if, having regard to all the circumstances, they had no reasonable alternative to quitting.¹⁰

⁶ See section 58(1)(a) of the DESD Act.

⁷ See section 58(1)(b) of the DESD Act.

⁸ See section 59(1) of the DESD Act.

⁹ See section 30(1) of the EI Act.

¹⁰ See section 29(c) of the EI Act.

[14] The law provides a list of relevant circumstances, including any of the following:

- undue pressure by an employer on the Claimant to leave their employment¹¹
- working conditions that constitute a danger to health or safety¹²
- discrimination on a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act* (CHRA).¹³

[15] To show just cause, the Claimant has to show that, having regard to all the circumstances, on a balance of probabilities, he had no reasonable alternative to leaving his job.¹⁴

– **The General Division did not make an error of jurisdiction**

[16] The Commission decided that the Claimant was disqualified from receiving EI benefits from June 26, 2022, because he voluntarily left his job without just cause.¹⁵ The Claimant appealed that decision to the General Division.¹⁶

[17] The General Division’s jurisdiction comes from the reconsideration decision made by the Commission.¹⁷ The reconsideration decision shows that the issue decided was “voluntarily leaving employment”.¹⁸

[18] The Claimant didn’t point to any specific errors of jurisdiction made by the General Division.¹⁹ He simply restates the reasons he left his job and says that he had just cause.

¹¹ See section 29(c)(xiii) of the EI Act.

¹² See section 29(c)(iv) of the EI Act.

¹³ See section 29(c)(iii) of the EI Act and the *Canadian Human Rights Act*, RSC 1985, c H-6.

¹⁴ See *Canada (Attorney General) v White*, 2011 FCA 190, at paragraph 3.

¹⁵ See initial decision at page GD3-33 and reconsideration decision at page GD3-40.

¹⁶ See pages GD2-1 to GD2-13.

¹⁷ See sections 112(1) and 113 of the EI Act.

¹⁸ See reconsideration decision at page GD3-40.

¹⁹ See page AD1-3.

[19] The Commission says that the General Division first decided that the Claimant voluntarily left his job and then examined if he had just cause to leave his job.²⁰

[20] I find that the General Division properly identified the issues in its decision.²¹ It considered whether the Claimant voluntarily left his job and whether he had just cause to leave his job based on his particular circumstances. It said that he had reasonable alternatives to leaving his job.²²

[21] The General Division decision shows that it only decided the issues that it had the authority to decide and did not decide any issues that it did not have the authority to decide. So, there was no error of jurisdiction made by the General Division.

– **The General Division did not make an error of law**

[22] As noted above, the Claimant's arguments to the Appeal Division simply restate the reasons he had just cause to leave his job. However, the Claimant also wrote in his appeal form that his employer discriminated against him due to age.²³

[23] At the Appeal Division hearing, I asked the Claimant to explain more about this allegation. I wanted to know how this allegation related to an error made by the General Division. The Claimant then referred to notes of a discussion between the employer and the Commission, which formed part of the evidence before the General Division. In that discussion, the employer told the Commission that the Claimant had "retired" after he stopped working.²⁴ The Claimant explained that he disagreed with employer's statement that he retired because it hurt his feelings.

[24] First, I find that the General Division correctly stated and applied the law for voluntary leave cases.²⁵ It properly considered all of the Claimant's circumstances that were set out in law, including whether his employer pressured him to leave and whether

²⁰ See page AD7-1.

²¹ See paragraphs 4, 8, 9 of the General Division decision.

²² See paragraphs 28, 29 and 30 of the General Division decision.

²³ See page AD1-3.

²⁴ See page GD3-25.

²⁵ See paragraphs 12, 13, 14 of the General Division decision.

the working conditions were a danger to his health or safety.²⁶ It concluded that the Claimant didn't have just cause because he had two reasonable alternatives to leaving his job.²⁷

[25] Second, the Claimant's arguments at the Appeal Division are not alleging an error made by the General Division. There was no evidence before the General Division that supports that the Claimant left his job because the employer discriminated against him based on age or that he raised such an argument as a reason for leaving his job. The Claimant simply didn't like that the employer characterized it as a "retirement" but that does not amount to an allegation of discrimination based on age. Given that, the General Division did not make an error of law when it didn't consider or make findings about it.²⁸ So, there was no error of law made by the General Division.²⁹

[26] Lastly, I acknowledge that the Claimant disagrees with the outcome of the General Division decision. However, the Appeal Division cannot reweigh evidence in order to come up with a more favourable outcome.³⁰ The Appeal Division's mandate is limited to determining whether the General Division made a reviewable error.³¹

[27] I reviewed the entire file, listened to the General Division recording and considered the submissions from the parties. I did not find any reviewable errors made by the General Division.³²

²⁶ See paragraphs 17, 25 and 26 of the General Division decision and sections 29(c)(iv) and 29(c)(xiii) of the EI Act.

²⁷ See paragraphs 28, 29 and 20 of the General Division decision.

²⁸ See section 29(c)(iii) of the EI Act.

²⁹ See section 58(1)(b) of the DESD Act.

³⁰ See *Garvey v Canada (Attorney General)*, 2018 FCA 118.

³¹ See *Marcia v Canada (Attorney General)*, 2016 FC 1367.

³² See section 58(1) of the DESD Act.

Conclusion

[28] The Claimant's appeal is dismissed. The General Division did not make an error of jurisdiction or an error of law. So, I cannot intervene in its decision.

Solange Losier
Member, Appeal Division