



Citation: *DC v Canada Employment Insurance Commission*, 2023 SST 1780

## **Social Security Tribunal of Canada Appeal Division**

# **Leave to Appeal Decision**

**Applicant:** D. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated September 15, 2023  
(GE-23-1174)

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**Tribunal member:** Pierre Lafontaine

**Decision date:** December 12, 2023

**File number:** AD-23-938

## Decision

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

## Overview

[2] The Applicant (Claimant) left her job on November 18, 2022, and applied for EI benefits. The Respondent (Commission) looked at the Claimant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it couldn't pay her benefits.

[3] The Commission says that the Claimant could have looked for a new job before leaving her job. It says that she could have looked for temporary housing, until she found affordable and permanent housing closer to her job or a new job closer to her home. It says that she could have tried commuting to her job, if only until she found a new job.

[4] The General Division found that the Claimant voluntary left her job. It found that the Claimant had the reasonable alternative of looking for a job prior to leaving her job. It concluded that the Claimant did not have just cause for leaving her employment.

[5] The Claimant seeks leave to appeal of the General Division's decision to the Appeal Division. She submits that she is disappointed in the decision. The Claimant submits that she had legitimate reasons to leaving her job when she did.

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

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

## Issue

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

## 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 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.

[10] 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 her 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.

[11] 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?**

[12] The Claimant submits that she is disappointed in the decision. The Claimant submits that she had legitimate reasons to leaving her job when she did. It was

unreasonable to stay at her job with her wages and be expected to pay out what she made in rent. She submits that there were a lot of job opportunities to find employment when she moved to her home. She puts forward that other people are receiving benefits after being fired or moving, no questions asked.

[13] The General Division had to determine whether the Claimant had just cause to voluntarily leave her employment.

[14] Whether one had just cause to voluntarily leave an employment depends on whether they had no reasonable alternative to leaving having regard to all the circumstances. Each case involving a claimant leaving their job is decided by the Tribunal according to all their circumstances.

[15] The General Division determined that the Claimant was given notice that her sister's house where she lived was up for sale in September 2022. She testified that she knew that the grocery store was hiring, as early as September 2022. She said that she didn't think she would have difficulty finding a job close to her home and, in fact, started a new job at the grocery store within a few weeks of quitting. The General Division found that, had she started looking for a job at an earlier date, the Claimant may not have provoked the risk of unemployment.

[16] It is well established that personal situations which cause a person to relocate do not constitute just cause for leaving employment under the law.

[17] It is also well established that a claimant has an obligation to look for work prior to leaving their job, in order not to provoke their unemployment. The Claimant did not do that.<sup>1</sup>

[18] I see no reviewable error made by the General Division. It correctly stated the applicable legal test. It applied this test to the facts of the case and asked whether, having regard to all the circumstances, the Claimant had no reasonable alternative to leaving her employment.

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<sup>1</sup> See GD3-21.

[19] Unfortunately, for the Claimant, an appeal to the Appeal Division of the Tribunal is not a new hearing where a party can re-present their evidence and hope for a new, favourable outcome.

[20] In her application for leave to appeal, the Claimant has not identified any reviewable errors such as jurisdiction or any failure by the General Division to observe a principle of natural justice. She has not identified errors in law nor identified any erroneous findings of fact, which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision.

[21] For the above-mentioned reasons and after reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Claimant in support of her request for leave to appeal, I find that the appeal has no reasonable chance of success.

## **Conclusion**

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

Pierre Lafontaine  
Member, Appeal Division