



[TRANSLATION]

Citation: *RC v Canada Employment Insurance Commission*, 2024 SST 142

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

# **Leave to Appeal Decision**

**Applicant:** R. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated  
December 11, 2023 (GE-23-2182)

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**Tribunal member:** Pierre Lafontaine

**Decision date:** February 15, 2024

**File number:** AD-24-11

## Decision

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

## Overview

[2] The Applicant (Claimant) stopped working for his employer. He made an initial claim for Employment Insurance (EI) benefits. A benefit period was established effective February 5, 2023.

[3] On April 26, 2023, the Respondent (Commission) told the Claimant that he was not entitled to EI benefits from January 29, 2023, because he voluntarily left his employment with the employer without just cause as defined in the law. The Claimant said that he had no choice but to stop working for the employer. Mechanical problems with his car prevented him from going to work, and there was no point in getting it fixed, given how old it was. On reconsideration, the Commission upheld its initial decision. The Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left his job. It found that when he started working for the employer in November 2021, he knew that he needed a vehicle to get to his workplace, which was about 30 kilometres from his home. He knew his conditions of employment and accepted them. The General Division found that before leaving his job, the Claimant could have talked to his employer to try to find a solution to his transportation problem. The General Division decided that the Claimant did not have just cause under the law for leaving his job.

## Issue

[5] The law 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.

[6] 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 at the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant does not have to prove his case; he must instead establish that the 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.

[7] 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.

### **I am not giving the Claimant permission to appeal**

[8] The Claimant argues that the General Division failed to consider his circumstances. He had no way of travelling the more than 30 kilometres between his home and work anymore. The area where he worked is inaccessible by public transit. He argues that the situation calls for some compassion and going beyond the wording of the law.

[9] The General Division found that the Claimant voluntarily left his job. It found that when he started working for the employer in November 2021, he knew that he needed a vehicle to get to his workplace, which was about 30 kilometres from his home. He knew his conditions of employment and accepted them. The General Division found that before leaving his job, the Claimant could have talked to his employer to try to find a solution to his transportation problem. The General Division decided that the Claimant did not have just cause under the law for leaving his job.

[10] The Claimant decided to leave his job because mechanical problems with his car made getting to work difficult, if not impossible at the time, which is not in itself a reason that the law accepts. As the General Division noted, the Claimant did not try to talk to

his employer to address the problem. Having failed to meet a strict obligation imposed on him by law, he is disentitled from receiving EI benefits.

[11] In my view, the General Division correctly stated the legal test for voluntary leaving. It applied this test to the facts of the case and looked at whether, after considering all of the circumstances, the Claimant had no reasonable alternative to leaving his job.

[12] An appeal to the Appeal Division is not an opportunity for the Claimant to present his case again and hope for a different outcome. I find that the Claimant has not raised any question of fact, law, or jurisdiction that could justify setting aside the decision under review.

[13] 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**

[14] Permission to appeal is not granted. This means that the appeal will not proceed.

Pierre Lafontaine  
Member, Appeal Division