



[TRANSLATION]

Citation: *LG v Canada Employment Insurance Commission*, 2024 SST 369

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	L. G.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated March 19, 2024 (GE-24-786)
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Tribunal member:	Pierre Lafontaine
Decision date:	April 16, 2024
File number:	AD-24-212

Decision

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

Overview

[2] The Applicant (Claimant) left his job to attend college full-time and applied for Employment Insurance (EI) benefits. The Respondent (Commission) decided that he voluntarily left (or chose to quit) his job without just cause, so it was not able to pay him benefits. The Commission also decided that the Claimant was not available for work while taking training.

[3] The Claimant challenged the Commission's decision, but the Commission upheld its decision on reconsideration. The Claimant appealed to the Tribunal's General Division.

[4] The General Division found that the Claimant quit his job to move closer to his school, which was located 235 km away from his home. It found that he did not have just cause under the law for leaving his job. It decided that he was not entitled to benefits. It did not decide on his availability given its finding on voluntary leaving.

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.

Preliminary remarks

[8] Although the file is in English, the Claimant asked that this decision be written in French.

I am not giving the Claimant permission to appeal

[9] The Claimant argues that the General Division made the same error as the Commission by focusing on his reason for leaving, without considering his obligation to move. He says that he explored all his options before leaving his job and that he had no choice but to leave, since he could not travel such a distance every day. He applied for at least eight full-time jobs before leaving the Kitchener area.

[10] The evidence shows that the Claimant left his job to go back to school. The Record of Employment from the employer says that he quit to go back to school.

[11] The Claimant was turned down by the college in Kitchener but was accepted to the one in Peterborough. So, he decided to move because the college in Peterborough was located 235 km away from his home. After resigning, he started looking for full-time jobs in Peterborough.¹

[12] The issue before the General Division was whether the Claimant voluntarily left his job without just cause within the meaning of the *Employment Insurance Act* (EI Act).

¹ See GD2-5.

This needs to be determined based on the circumstances that existed when the Claimant quit.

[13] The General Division found that the Claimant quit his job to move closer to the college in Peterborough, which was located 235 km away from his home. It found that moving to attend school is not just cause for quitting a job. It found that the Claimant could have waited to be accepted to his local college or secured employment in Peterborough before resigning. It did not decide on his availability given its finding on voluntary leaving.

[14] It is not disputed that the Claimant is the one who ended his employment. If it had not been for his choice to go back to school, he would have kept his job in Kitchener. He himself stated that he made the decision to move to take a course at the college in Peterborough.

[15] The Claimant argues that the General Division failed to consider his obligation to move to Peterborough.

[16] As the General Division noted, the Claimant's obligation to move is the logical consequence of his initial choice to go back to school in an area other than the one he lived in. In other words, there is no obligation to move if he does not go back to school in Peterborough.

[17] I find that the General Division properly applied the consistent case law of the Federal Court of Appeal to the effect that a claimant's voluntarily leaving their employment to go back to school or take training does not amount to "just cause" within the meaning of sections 29 and 30 of the EI Act.²

[18] 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

² See *Canada (Attorney General) v King*, 2011 FCA 29; *Canada (Attorney General) v MacLeod*, 2010 FCA 201; *Canada (Attorney General) v Beaulieu*, 2008 FCA 133; *Canada (Attorney General) v Caron*, 2007 FCA 204; *Canada (Attorney General) v Côté*, 2006 FCA 219; and *Canada (Attorney General) v Bois*, 2001 FCA 175.

considering all of the circumstances, the Claimant had no reasonable alternative to leaving his job.

[19] The Claimant surely made a good decision to further his personal development. However, he did not have just cause for leaving within the meaning of the EI Act.

[20] 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

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

Pierre Lafontaine
Member, Appeal Division