



[TRANSLATION]

Citation: *EE v Canada Employment Insurance Commission*, 2024 SST 495

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	E. E.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated March 12, 2024 (GE-24-372)
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Tribunal member:	Pierre Lafontaine
Decision date:	May 9, 2024
File number:	AD-24-282

Decision

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

Overview

[2] The Applicant (Claimant) was denied regular benefits by the Respondent (Commission). The Claimant disputed the Commission's decision. On reconsideration, the Commission decided that the Claimant was not available for work from August 7 to December 1, 2023, since his work permit limited him to only one employer. The Claimant appealed to the Tribunal's General Division.

[3] The General Division found from the evidence that the Claimant had not shown that he wanted to go back to work as soon as a suitable job was available. It found that, for almost eight months, the Claimant had not made efforts to get his permit changed or, at the very least, find out the rules for changing his work permit. The General Division found that, by keeping his permit limited to one employer and not making efforts to open his permit to other potential employers, he unduly limited his chances of getting a new job. It found that the Claimant was not available for work within the meaning of the law during the period in dispute.

Issue

[4] 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.

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

[6] 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

[7] The Claimant argues that he was working with a closed permit. He was limited to only one employer. His application for an open permit was refused. He was always available for work during the period in dispute.

[8] In finding that the Claimant was not available for work, the General Division considered that the Claimant had a closed permit that legally prevented him from working for another employer. However, it also considered whether the Claimant had made efforts to look for other jobs or to try to get another work permit.

[9] If the Claimant had taken prompt steps to get another work permit, the General Division could have found that the closed permit did not necessarily mean that the Claimant was not "capable of and available for work." However, there was no evidence before the General Division to support this.

[10] In addition, the General Division found that the Claimant did not make sustained efforts to find a job until December 1, 2023. This finding of fact is based on the Claimant's own testimony.

[11] The Appeal Division does not have the power to reconsider findings of fact or findings of mixed fact and law of the General Division because the General Division did

not make them in a perverse or capricious manner or without regard for the material before it.¹

[12] I also see no reviewable error made by the General Division in its interpretation of section 18 of the *Employment Insurance Act*.

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

[14] 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

[15] Permission to appeal is refused. This means that the appeal will not proceed.

Pierre Lafontaine
Member, Appeal Division

¹ *Page v Canada (Attorney General)*, 2023 FCA 169.