



Citation: *SC v Canada Employment Insurance Commission*, 2024 SST 393

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated March 4, 2024
(GE-24-408)

Tribunal member: Janet Lew

Decision date: April 19, 2024

File number: AD-24-228

Decision

[1] Leave (permission) to appeal is refused. The appeal will not be going ahead.

Overview

[2] The Applicant, S. C. (Claimant), is seeking leave to appeal the General Division decision. The General Division found that the Claimant had not shown that he had just cause for leaving his job when he did. The General Division found that the Claimant had reasonable alternatives to leaving his job. This meant that the Claimant was disqualified from receiving Employment Insurance benefits.

[3] The Claimant argues that he had just cause and that he did not have any reasonable alternatives to leaving his job. He did not have any viable transportation options to get to work. So, he says the only options he had were to either quit his job or fail to show up for work and get dismissed. He says the General Division made legal and factual errors.

[4] Before the Claimant can move ahead with the appeal, I have to decide whether the appeal has a reasonable chance of success. In other words, there has to be an arguable case.¹ If the appeal does not have a reasonable chance of success, this ends the matter.²

[5] I am not satisfied that the appeal has a reasonable chance of success. Therefore, I am not giving permission to the Claimant to move ahead with the appeal.

Issue

[6] Is there an arguable case that the General Division made a legal error, or that it based its decision on a factual error that it made without regard for the evidence before it?

¹ See *Fancy v Canada (Attorney General)*, 2010 FCA 63.

² Under section 58(2) of the *Department of Employment and Social Development (DESD) Act*, I am required to refuse permission if I am satisfied “that the appeal has no reasonable chance of success.”

I am not giving the Claimant permission to appeal

[7] Leave to appeal is refused if the Appeal Division is satisfied that the appeal has no reasonable chance of success. A reasonable chance of success exists if the General Division may have made a jurisdictional, procedural, legal, or a certain type of factual error.³

[8] For these types of factual errors, the General Division had to have based its decision on an error that it made in a perverse or capricious manner, or without regard for the evidence before it.⁴

There is not an arguable case that the General Division made a legal or factual error

[9] The Claimant has not identified any specific legal or factual errors that the General Division might have made. He does not challenge the evidence other than to say that he did not have any options other than to quit or get fired from his job.

[10] The General Division listed several reasonable alternatives to quitting. The Claimant had previously suggested that these alternatives, such as seeking a leave of absence from his job or going on an extended medical leave, were not reasonable. His employer would not have paid him if he had been on, say a leave of absence or an extended medical leave of absence. So, from that perspective, he did not find these to be reasonable alternatives.

[11] However, taking either a leave of absence or an extended medical leave of absence would have left him in no different a position from the option that the Claimant chose.

[12] Other than not getting paid, the Claimant does not otherwise challenge the reasonableness of the alternatives to quitting that the General Division set out.

³ See section 58(1) of the DESD Act.

⁴ See section 58(1)(c) of the DESD Act.

[13] The Claimant is seeking a reassessment and asking me to come to a different conclusion from the one that the General Division member made. But, as the Federal Court said in a case called *Tracey*,⁵ in an application for leave to appeal (in Employment Insurance matters), the Appeal Division has a limited role. It has to determine whether the appeal has a reasonable chance of success. It does not reassess evidence or reweigh the factors considered by the General division in order to reach a different conclusion.

[14] As the Federal Court stated in another case, the possibility that the evidence might be reassessed in the applicant's favour does not give rise to an arguable case sufficient to grant leave to appeal.⁶

[15] The General Division considered all of the evidence. The General Division was clearly aware that the Claimant did not have any viable transportation options. The General Division noted that he did not have a valid driver's licence and that public transportation was unavailable. Taxis were too expensive, and he could not rely on others for a ride to get to work.

[16] The Claimant says that he is entitled to Employment Insurance benefits. He says that without them, he will not be able to survive. Being denied has caused him stress. He says that he is now involving the RCMP.

[17] However, the General Division properly cited and applied the applicable law.⁷ The General Division's findings were consistent with the evidence before it. It did not overlook or misconstrue any of the evidence. The Claimant does not have an arguable case that the General Division made a legal or factual error. The Claimant remains disqualified from receiving Employment Insurance benefits.

⁵ See *Tracey v Canada (Attorney General)*, 2015 FC 1300 at para 46.

⁶ See *Canada (Attorney General) v Tsagbey*, 2017 FC 356 at para 77.

⁷ See General Division decision, at paras 12 and 13.

[18] The General Division noted that the Claimant was staying in a men's shelter. Hopefully, he is able to access community and other resources and supports that may be available.

Conclusion

[19] The appeal does not have a reasonable chance of success. Permission to appeal is refused. This means that the appeal will not proceed.

Janet Lew
Member, Appeal Division