Citation: *MZ v Canada Employment Insurance Commission*, 2024 SST 585

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	M. Z.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated May 7, 2024 (GE-24-983)

Tribunal member:	Glenn Betteridge
Decision date:	May 24, 2024
File number:	AD-24-351

Decision

[1] I am not giving M. Z. leave (permission) to appeal. His appeal won't go forward. So, the General Division decision stands unchanged.

Overview

[2] M. Z. is the Claimant in this appeal. He quit his job as an electrician and made a claim for Employment Insurance regular benefits.

[3] The Canada Employment Insurance Commission (Commission) decided he voluntarily left (quit) his job without just cause. In other words, he didn't have a reason the law accepts for quitting when he did. So, the Commission could not pay him benefits.[1]

[4] The Claimant appealed the Commission's decision to this Tribunal's General Division. It dismissed his appeal. It found he had a reasonable alternative to quitting in all the circumstances that existed when he quit. In other words, he didn't prove he had just cause for quitting. So, it decided he is disqualified from getting benefits.

[5] The Claimant has appealed the General Division decision. The Appeal Division can only hear his appeal if I give him permission to appeal.

Issue

[6] Has the Claimant shown there is an arguable case the General Division made an important factual error by ignoring or misunderstanding the Claimant's evidence that his job was dangerous to his health?

---

[1] See sections 29 and 30 of the *Employment Insurance Act* (EI Act).

I am not giving the Claimant permission to appeal

What the law says

[7] I can give permission to appeal if a claimant can show an arguable case that the General Division:

- used an unfair process or was biased
- made a legal error
- based its decision on an important factual error
- didn't decide an issue it should have decided, or decided an issue it should not have decided[2]

[8] The arguable case test is easy to meet.[3]

[9] In voluntary leaving appeals, the Commission has to show the person quit. If it can, then the person will be disqualified from getting benefits unless they can show they had just cause for quitting.[4]

[10] The *Employment Insurance Act* (EI Act) says a person will have just cause for quitting if they had no reasonable alternative considering all the circumstances that existed when they quit.[5] One circumstance the General Division should consider is working conditions that constitute a danger to health or safety.[6]

---

[2] These are the grounds of appeal in section 58(1) of *the Department of Employment and Social Development Act* (DESD Act). Section 58(2) of the DESD Act says that I have to give permission to appeal if the appeal has a reasonable chance of success. This is the same as having an "arguable case." See *O'Rourke v Canada (Attorney General)*, 2018 FC 498.
[3] This legal test is described in cases like *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.
[4] See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 3.
[5] See section 29(c) of the EI Act.
[6] See section 29(c)(iv) of the EI Act.

There is no arguable case the General Division ignored or misunderstood the Claimant's evidence about the danger his work posed to his health

[11] The Claimant is arguing the General Division made an important factual error. He used the wrong appeal form.[7] But he gave detailed reasons on the form. His reasons clearly show the error he is arguing the General Division made.

[12] The Claimant writes, "I firmly disagree with this decision as it overlooks crucial aspects of my situation, particularly regarding the health hazards posed by working in cold weather."[8] He goes on to argue:

> During the hearing held on April 24, 2024, I presented substantial evidence and arguments demonstrating that working outside in cold weather directly threatened my health. I provided testimony regarding the physical discomfort and pain I experienced, exacerbated by my age and medical history of high blood pressure. Additionally, I submitted a doctor's note dated April 13, 2024, explicitly advising against working in cold weather due to my medical condition. Despite presenting this evidence and argument, the decision failed to adequately address the significant health risks I faced. Mr. Bret Edwards did not express any disagreement with my concerns during the hearing. However, the decision abruptly dismissed my claims and asserted that I did not face working conditions constituting a danger to my health or safety.[9]

[13] The General Division makes an important factual error if it bases its decision on a factual finding it made by ignoring or misunderstanding evidence.[10] In other words, the evidence goes squarely against or doesn't support a factual finding the General Division made.[11]

---

[7] See AD1. He used the appeal form for an Employment Insurance (EI) appeal to the General Division. He should have used the appeal form for an EI appeal to the Appeal Division.
[8] See AD1-5.
[9] See AD1-5.
[10] Section 58(1)(c) of the DESD Act says it is a ground of appeal where the General Division, "based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it." I have described this ground of appeal using plain language, based on the words in the DESD Act and the cases that have interpreted the DESD Act.
[11] See *Garvey v Canada (Attorney General)*, 2018 FCA 118; and *Walls v Canada (Attorney General)*, 2022 FCA 47.

[14] I can presume the General Division reviewed all the evidence—in its decision it doesn't have to refer to every piece of evidence.[12] I can't reweigh the evidence.[13] And I can't find an arguable case the General Division made an error only because I would have weighed the evidence differently or come to a different decision based on the evidence.

[15] The Claimant hasn't pointed to specific evidence the General Division ignored or misunderstood.

[16] The General Division's decision lists the evidence about the effects of the Claimant's working conditions on his health at paragraph 19. This includes his testimony. Then it sets out the relevant law (paragraph 20), and reviews and weighs the evidence (paragraphs 22, 23, 25 to 27, 29, 30, 33, and 34) to arrive at its findings of fact (paragraphs 21, 24, 28, 31, 32).

[17] I reviewed the documents that were before the General Division, including the evidence in the Commission's reconsideration file (GD3). I listened to the entire recording of the General Division hearing. And I read the General Division decision, keeping in mind the legal issues it had to decide, the law it had to apply, and the relevant evidence it had to consider.

[18] I disagree with the Claimant's position that he presented substantial evidence and arguments about how working outside in cold weather directly threatened his health. He presented very little evidence. He testified about this issue very briefly, in very general terms.[14]

[19] The General Division's decision shows me it grappled with that evidence. The General Division summarized, then weighed, the Claimant's testimony—without ignoring or misunderstanding anything he said. The doctor's note is one sentence. The

---

[12] See *Sibbald v Canada (Attorney General)*, 2022 FCA 157 at paragraph 46.
[13] See for example *Paraparan v Canada (Attorney General)*, 2020 FC 363 at paragraph 21.
[14] Listen to the hearing recording at 17:20 to 17:40; 18:20 to 18:44; 27:25 to 27:37; and 32:13 to 32:39.

General Division reviewed the note, weighed the note, and made a factual finding about the note—in six paragraphs of its decision.

[20] So, there isn't an arguable case the General Division ignored or misunderstood the evidence. And there isn't an arguable case the evidence goes squarely against or doesn't support a factual finding the General Division made.

[21] In other words, there isn't an arguable case the General Division made an important factual error.

There is no other reason to give the Claimant permission to appeal

[22] The Claimant is representing himself. So, I reviewed the appeal file from the General Division and read the General Division decision to see if there was an arguable case it might have made another error.[15]

[23] I didn't find that the General Division ignored or misunderstood any important evidence I didn't already deal with, above. It didn't decide any legal issues it had no power to decide. It identified and decided the legal issues it had to decide. And it used the correct legal tests when making its decision.

[24] This means there is no arguable case that the General Division made any other error I can consider.

Conclusion

[25] I am not giving the Claimant permission to appeal. This means that his appeal won't go forward. And the General Division decision stands unchanged.

Glenn Betteridge

Member, Appeal Division

[15] Where a self-represented claimant is asking for permission to appeal a General Division decision, I should not apply the permission to appeal test in a mechanistic manner. I take this to mean I should review the law, the evidence, and the decision from the General Division. See, for example, *Griffin v Canada (Attorney General)*, 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; and *Joseph v Canada (Attorney General)*, 2017 FC 391.