



Citation: *CB v Canada Employment Insurance Commission*, 2024 SST 772

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

# **Leave to Appeal Decision**

**Applicant:** C. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** General Division decision dated April 15, 2024  
(GE-24-175)

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**Tribunal member:** Stephen Bergen

**Decision date:** **June 28, 2024**

**File number:** AD-24-319

## **Decision**

[1] I am refusing leave (permission) to appeal. The appeal will not proceed.

## **Overview**

[2] C. B. is the Applicant. I will call her the Claimant because this application is about her claim for Employment Insurance (EI) benefits.

[3] The Claimant left her job on July 4, 2023, and applied for EI benefits. The Respondent, the Canada Employment Insurance Commission (Commission), decided it could not pay her benefits because she voluntarily left her job without just cause.

[4] The Claimant asked the Commission to reconsider, but it would not change its decision. When the Claimant appealed to the General Division of the Social Security Tribunal, the General Division dismissed her appeal. Now she is asking the Appeal Division for permission to appeal.

[5] I am refusing leave to appeal. The Claimant has not made out an arguable case that the General Division made an important error of fact.

## **Issue**

[6] Is there an arguable case that the General Division made an important error of fact in how it assessed the significance of the employer's request to return the "binder."

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

### **General Principles**

[7] For the Claimant's application for leave to appeal to succeed, her reasons for appealing would have to fit within the "grounds of appeal." The grounds of appeal identify the kinds of errors that I can consider.

[8] I may consider only the following errors:

- a) The General Division hearing process was not fair in some way.
- b) The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide (error of jurisdiction).
- c) The General Division based its decision on an important error of fact.
- d) The General Division made an error of law when making its decision.<sup>1</sup>

[9] To grant this application for leave and permit the appeal process to move forward, I must find that there is a reasonable chance of success on one or more grounds of appeal. Other court decisions have equated a reasonable chance of success to an “arguable case.”<sup>2</sup>

### **Important error of fact**

[10] The Claimant completed her application to the Appeal Division, indicating that she believed the General Division made an error of fact. She did not otherwise explain why she believed the General Division made an error of fact, so I wrote to her on May 14, 2024. I set out the grounds of appeal together with brief explanations and asked her for a detailed explanation.

[11] The Claimant responded on June 18, 2024. She maintained that she had not left voluntarily and talked about some of her work circumstances and maintained that the employer let her go when it asked her for the return of her own dispatch book or “binder” and any other company “things.” Most of what she wrote is found in some form in the reconsideration file, or repeats her arguments to the General Division.

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<sup>1</sup> This is a plain-language version of the grounds of appeal. The full text is in section 58(1) of the *Department of Employment and Social Development Act* (DESDA).

<sup>2</sup> See *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41; and *Ingram v Canada (Attorney General)*, 2017 FC 259.

[12] I presume that the Claimant means to now argue that the General Division ignored that she had been asked to return to the book, or that it misunderstood the significance of being asked to return it.

[13] The General Division appears to have understood what the Claimant said about how the employer asked her to bring in all her equipment, including her binder, and why she believed this meant was being fired. It understood her evidence that her manager told her this was the only way she would be asked to return the binder.

[14] The General Division considered the Claimant's explanation for why she believed she had been dismissed.<sup>3</sup> At the same time, it also considered the Claimant's admission that the owner had never said to her she was dismissed. It considered messages between the Claimant and the employer, which suggested the employer expected the Claimant to return to work even after asking for the return of the binder. It considered the employer's explanation that it required the dispatcher's binder so that one of the owners could fill in as a dispatcher.

[15] The General Division weighed all of the evidence and concluded that the Claimant had been dismissed.

[16] I can only find an error of fact where I accept that the General Division has based its decision on a finding of fact that ignores or misunderstands relevant evidence, or on a finding that does not follow logically from the evidence.<sup>4</sup> The Claimant did not point to any relevant evidence before the General Division that the General Division ignored or misunderstood.

[17] The Claimant disagrees with the General Division's conclusion, but I have no authority to interfere with how the General Division weighs or evaluates the evidence.<sup>5</sup>

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<sup>3</sup> See paras 18 and 19 of the General Division decision.

<sup>4</sup> This is a paraphrase. Section 58(1)(c) of the DESDA actually says that an error of fact is 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."

<sup>5</sup> See for example: *Hideq v Canada (Attorney General)*, 2017 FC 439, *Parchment v Canada (Attorney General)*, 2017 FC 354, *Johnson v Canada (Attorney General)*, 2016 FC 1254, *Marcia v Canada (Attorney General)*, 2016 FC 1367.

[18] The Claimant has no reasonable chance of success.

## **Conclusion**

[19] I am refusing permission to appeal. This means that the appeal will not proceed.

Stephen Bergen  
Member, Appeal Division