



[TRANSLATION]

Citation: *CC v Canada Employment Insurance Commission*, 2024 SST 629

Social Security Tribunal Canada Appeal Division

Leave to Appeal Decision

Applicant: C. C.
Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated
May 17, 2024 (GE-24-518)

Tribunal member: Pierre Lafontaine

Decision date: June 3, 2024

File number: AD-24-362

Decision

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

Overview

[2] The Applicant (Claimant) stopped working for her employer. She made an initial claim for Employment Insurance (EI) benefits effective October 29, 2023.

[3] The Respondent (Commission) told her that she was not entitled to EI benefits because she voluntarily left her job without good cause within the meaning of the law. The Claimant asked for this decision to be reconsidered. On reconsideration, the Commission upheld its initial decision. The Claimant appealed to the General Division.

[4] The General Division found that the Claimant voluntarily left her job. It found that she left her job to retire. The General Division found that she had reasonable alternatives to leaving her job, including looking for a job that better met her expectations or getting medical evidence that proved she had to leave her job because of her health. The General Division found that the Claimant did not have just cause for leaving her job within the meaning of the law.

[5] The Claimant now seeks permission from the Appeal Division to appeal the General Division decision. She argues that the General Division ignored evidence before it and wrongly found that she did not have just cause for leaving.

Issues

[6] 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 that 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.

[7] 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 on the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant does not have to prove her case but must establish that her appeal has a reasonable chance of success. In other words, she must show that there is arguably a reviewable error based on which the appeal might succeed.

[8] I will grant 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 permission to appeal to the Claimant

[9] The Claimant argues that if her employer had told her that the weeks from October 29 to November 11 were the last weeks she would perform inspections, she would have stayed with her employer. She argues that she no longer had the physical abilities that the job required. She argues that she is looking for work that is more suitable for her. The Claimant argues that her husband needs assistance because he was diagnosed with cancer. She feels she is entitled to benefits based on the premiums she paid on her paycheques.

[10] The General Division found that the Claimant voluntarily left her job. It found that she left her job to retire. The General Division found that she had reasonable alternatives to leaving her job, including looking for a job that better met her expectations or getting medical evidence she had to leave her job because of her health. The General Division found that the Claimant did not have just cause for leaving her job within the meaning of the law.

[11] The issue before the General Division was whether the Claimant had just cause for voluntarily leaving her job within the meaning of the law.¹ This has to be determined **at the time the Claimant quit her job.**

[12] Whether a claimant had just cause for voluntarily leaving a job depends on whether, considering all the circumstances, the claimant had no reasonable alternative to leaving.

[13] In other words, did the Claimant have any reasonable alternatives to leaving her job when she did?

[14] The undisputed evidence before the General Division shows that the Claimant made a personal choice to leave her job to retire. In the summer of 2023, the Claimant told the employer that she would be retiring in September 2023. At the employer's request, the Claimant agreed to continue working in September 2023, given the needs of the business. She voluntarily retired on October 27, 2023. The employer issued a Record of Employment (ROE) that confirms the Claimant quit her job to retire.

[15] There is no medical evidence that the Claimant had to leave her job because of her health.² On her application for benefits, the Claimant indicated that she had not looked for work **before** leaving her job because she had reached retirement age.³

[16] I find that the General Division did not make a reviewable error when it found that the Claimant voluntarily left her job and that there were reasonable alternatives to leaving when she did. She could have continued to work while she looked for another suitable job, or she could have seen a doctor to obtain the necessary medical evidence to justify leaving.

¹ See section 29(c) of the *Employment Insurance Act*.

² The Claimant testified that her medical issues didn't influence her decision to retire.

³ See GD3-8.

[17] It is unfortunate that her employer did not inform her of a possible layoff and that her spouse is currently undergoing cancer treatment. But this does not change the fact that at the time the Claimant quit her job there were reasonable alternatives to leaving.

[18] I sympathize with the Claimant when she points out that she paid EI premiums on her paycheques. But it is important to remember that the primary purpose of the *Employment Insurance Act* is to compensate Claimants who have lost their jobs **involuntarily**.

[19] I must also reiterate that an appeal to the Appeal Division is not an opportunity to present your case again and hope for a different outcome than the one reached at the General Division. I find that the Claimant has not raised any question of law, fact, or jurisdiction that could justify setting aside the decision under review.

[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 refused. This means that the appeal will not proceed.

Pierre Lafontaine
Tribunal Member, Appeal Division