



[TRANSLATION]

Citation: *TB V Canada Employment Insurance Commission*, 2024 SST 916

Social Security Tribunal of Canada Appeal Division

Leave to appeal decision

Claimant:	T. B.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	General Division decision dated July 2, 2024 (GE-24-1730)
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Tribunal member:	Pierre Lafontaine
Decision date:	August 2, 2024
File number:	AD-24-496

Decision

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

Overview

[2] The Applicant (Claimant) stopped working for his employer and applied for Employment Insurance (EI) benefits.

[3] The Respondent (Commission) told him that he was disqualified from receiving EI benefits because he voluntarily left his job without just cause under the law. The Claimant asked for that 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 his job. It decided that the Claimant had reasonable alternatives to leaving his job. The General Division found that the Claimant did not have just cause under the law for voluntarily leaving his job.

[5] The Claimant is now asking the Appeal Division for permission to appeal the General Division decision. He argues that the General Division made errors of fact and law.

Issues

[6] The law specifies the only grounds of appeal of a General Division decision.¹ 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.

¹ See section 58(1) the of the *Department of Employment and Social Development Act*.

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 his case; he must instead establish that the 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.

[8] 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

[9] The Claimant says that the General Division made errors of facts and law.² He argues that he refused to sign fraudulent and non-compliant reports. He argues that the employer wanted to force him to breach the code of ethics and the collective agreement. The CNESST could not do anything for him because he was unionized. His union did not support him. He had no choice but to leave his job.

[10] The issue before the General Division was whether the Claimant had just cause for voluntarily leaving his job under the *Employment Insurance Act*.³

[11] 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.

[12] The General Division found that the Claimant voluntarily left his job. He sent a resignation email to his employer on March 10, 2024. He did not want to sign an

² See Claimant's full arguments, GD2-5

³ See section 29(c) of the *Employment Insurance Act*.

inspection report because he found the part to be non-compliant. He had done this in the past, but this time he refused.

[13] The General Division found that the Claimant had not shown that the employer was forcing him to go against his code of conduct. After reading the code of conduct and the excerpt from the job description, it did not accept the Claimant's position that signing this inspection report went against his code.

[14] The General Division gave more weight to the version of events from the employer and the union confirming that the Claimant had to sign the report even when there was a defect.

[15] The General Division found that the Claimant had reasonable alternatives to leaving his job. It considered that instead of leaving his job, he could have reported the situation to the Natural Resources Canada Non-Destructive Testing Certification Body (NRCan NDTCB), which is responsible for his code of conduct.

[16] I see no reviewable error made by the General Division based on which the appeal might succeed. The evidence shows, on a balance of probabilities, that the Claimant voluntarily left his job and that he had a reasonable alternative. He also could have looked for a more suitable job before leaving, which he did not do.

[17] I am of the view that the General Division correctly stated the applicable legal test for voluntary leaving. It applied this test to the facts of this case and looked at whether, after considering all the circumstances, the Claimant had no reasonable alternative to leaving his job.

[18] 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.

[19] 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

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

Pierre Lafontaine
Member, Appeal Division