



Citation: *SJ v Canada Employment Insurance Commission*, 2025 SST 27

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated January 7, 2025
(GE-24-3732)

Tribunal member: Glenn Betteridge

Decision date: January 14, 2025

File number: AD-25-19

Decision

[1] I am not giving S. J. permission to appeal the General Division decision.

[2] This means her appeal won't go forward. And the General Division decision stands unchanged.

Overview

[3] S. J. is the Claimant. In July 2024 she left her job in retail sales at a swimming pool and outdoor leisure company. Then she renewed a claim for Employment Insurance (EI) regular benefits.

[4] The Claimant says she quit her job because some of her work colleagues were illegally cooperating in ongoing investigations of cybercrimes and terrorism. She says these investigations were from complaints she made to police in 2021.

[5] The Canada Employment Insurance Commission (Commission) decided it could not pay her benefits. She didn't give a reason the law accepts for quitting her job. In legal terms, she didn't have just cause for quitting because she had reasonable alternatives in the circumstances that existed when she quit.¹

[6] This Tribunal's General Division dismissed the Claimant's appeal. The parties agreed the Claimant quit. The General Division decided she had reasonable alternatives to quitting. Before she quit, she could have discussed her options with human resources or upper management. She could have filed a human rights complaint. She could have asked for a leave of absence or looked for another job.

[7] The Claimant has asked for permission to appeal the General Division decision. To get permission, she has to show her appeal has a reasonable chance of success. Unfortunately, she hasn't.

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

Issues

[8] I have to decide two issues.

- Is there an arguable case the General Division made an important error of fact when it ignored the Claimant's evidence about ongoing police investigations?
- Is there an arguable case the General Division made any other error the law lets me consider?

I am not giving the Claimant permission to appeal

[9] I read the Claimant's application to appeal.² I read the General Division decision. I reviewed the documents in the General Division file.³ And I listened to the hearing recording.⁴

[10] For the reasons that follow, I am not giving the Claimant permission to appeal.

The test for getting permission to appeal

[11] To get permission, the Claimant's appeal has to have a reasonable chance of success.⁵ This means she has to show there is an arguable case the General Division used an unfair process, or made a jurisdictional error, a legal error, or an important factual error.⁶

[12] I have to start by considering the grounds of appeal the Claimant set out in her application.⁷

² See AD1.

³ See GD2, GD3, GD4, GD6, GD7, and GD8 to GD12.

⁴ The hearing lasted approximately 1 hour and 12 minutes.

⁵ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

⁶ These are the grounds of appeal in section 58(1) of the DESD Act. I call them errors. For the "arguable case" legal test, see *Brown v Canada (Attorney General)*, 2024 FC 1544 at paragraph 41, citing *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12.

⁷ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 26.

[13] Before I do that, I need to decide whether I can consider two documents. The Claimant sent the Appeal Division the RCMP's response to her access to information request.⁸ And she sent an updated list of police investigations.⁹

[14] Unfortunately, I can't consider these documents. They are new evidence that wasn't before the General Division. And these documents don't meet an exception to the rule that says the Appeal Division can't consider new evidence.¹⁰

There isn't an arguable case the General Division made an important factual error

[15] The Claimant checked the box that says the General Division made an important error of fact.¹¹

[16] Then she argues the General Division ignored evidence of the ongoing RCMP investigations. She says she requested that the RCMP conclude those investigations. The RCMP fulfilled her access to information request, which she gave to the General Division. But based on legal advice she could not discuss the investigation until they were legally concluded.

[17] The General Division makes an important factual error if it bases its decision on a factual finding it made by ignoring or misunderstanding relevant evidence.¹² In other words, some evidence goes squarely against or doesn't support a factual finding the General Division made to reach its decision.

[18] It's the General Division's job to review and weigh the evidence.¹³ I can't re-weigh the evidence or substitute my view of the facts. The law also says I can presume

⁸ See AD1-2 and AD1-3.

⁹ See AD1-15 to AD1-21. The original list, which was before the General Division, is in GD8.

¹⁰ See *Sibbald v Canada (Attorney General)*, 2022 FCA 157 at paragraphs 37 to 40.

¹¹ See AD1-38.

¹² Section 58(1)(c) of the DESD Act says it's a ground of appeal where the General Division based its decision on an erroneous finding of fact 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 Act and the cases that have interpreted the Act.

¹³ See *Tracey v Canada (Attorney General)*, 2015 FC 1300 at paragraph 33.

the General Division reviewed all the evidence—it doesn't have to refer to every piece of evidence.¹⁴

[19] There isn't an arguable case the General Division ignored or misunderstood the Claimant's evidence about ongoing police investigations. The General Division considered the Claimant's evidence about ongoing investigations into harassment, stalking, cybercrimes, and terrorism in two ways in its decision.

[20] As a preliminary matter, the General Division considered whether to put the Claimant's appeal on hold pending a response to her access to information request (paragraphs 8 to 15). At paragraph 13, the General Division cites the Claimant's written argument that says her personal information and evidence from federal investigations aren't required to prove or decide her EI appeal. The General Division accepted the Claimant's position and went ahead and decided her appeal.

[21] The General Division also reviewed the Claimant's evidence about harassment, stalking, cybercrimes, and terrorism—and the involvement of some of her work colleagues (paragraphs 23 to 29). Then it weighed the evidence, including the Commission's evidence and the Claimant's testimony (paragraphs 39 to 43). And it made three findings of fact based on the evidence.

- Her statements that her co-workers are abusing cooperation with cybercrimes weren't credible because she hasn't provided any evidence or information to back this up (paragraph 38).
- She didn't provide any evidence that her employer was engaging in illegal activities (paragraph 38).
- The General Division didn't believe the Claimant was unable to give more detail about what was going on at work, beyond explaining "abusing cooperation with cybercrimes" (paragraph 44).

¹⁴ See *Sibbald v Canada (Attorney General)*, 2022 FCA 157 at paragraph 46.

[22] The Claimant hasn't shown the General Division ignored or misunderstood her evidence, or any of the evidence. And based on my review of the evidence (the documents and her testimony), the relevant evidence supports these three findings of fact.

[23] The relevant evidence also supports the General Division's findings that the Claimant had four reasonable alternatives to quitting (paragraph 51).

[24] So, the Claimant hasn't shown an arguable case the General Division made an important error of fact. And I didn't find an arguable case.

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

[25] The Claimant is representing herself. So, I considered whether there was an arguable case the General Division made one of the other errors the law lets me consider.¹⁵

[26] As I explained above, I reviewed the General Division record and its decision. I didn't find an arguable case the General Division misused its decision-making power, made a legal error, used an unfair process, or was biased when it heard and decided the Claimant's appeal.

Conclusion

[27] The Claimant hasn't shown an arguable case the General Division made an error. And I didn't find an arguable case.

[28] This means her appeal doesn't have a reasonable chance of success. So, I can't give her permission to appeal.

Glenn Betteridge
Member, Appeal Division

¹⁵ The Federal Court has said the Appeal Division should not apply the permission to appeal test in a mechanistic manner. 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.