



[TRANSLATION]

Citation: *SP v Canada Employment Insurance Commission*, 2024 SST 1163

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: S. P.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated September 5, 2024
(GE-24-1782)

Tribunal member: Pierre Lafontaine

Decision date: October 3, 2024

File number: AD-24-590

Decision

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

Overview

[2] The Applicant (Claimant) left her job. On August 31, 2022, the Respondent (Commission) decided that the Claimant had voluntarily left her job without just cause. It disqualified the Claimant from receiving benefits.

[3] On May 8, 2024, the Claimant appealed the Commission's reconsideration decision to the Tribunal's General Division.

[4] The General Division found that it had no choice but to apply the law, which says that the General Division may extend the time to appeal up to one year after the reconsideration decision is communicated.¹ The Claimant's appeal to the General Division wasn't heard.

[5] The Claimant is now asking permission from the Appeal Division to appeal the General Division's decision. She argues that she left her job to retire. She says that her last job had evolved beyond her skill set—impacting her health—and that she had no option but to leave when she did. She argues that she worked her entire life and sincerely believed that the Commission could help her.

[6] I have to decide whether there is an arguable case that the General Division made a reviewable error based on which the appeal has a reasonable chance of success.

[7] I am refusing permission to appeal because the Claimant hasn't raised a ground of appeal based on which the appeal has a reasonable chance of success.

¹ See section 52(2) of the *Department of Employment and Social Development Act* (DESD Act).

Issue

[8] Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

Analysis

[9] The law specifies the only grounds of appeal of a General Division decision.² These reviewable errors are the following:

1. The General Division hearing process wasn't fair in some way.
2. The General Division didn't decide an issue it should have decided. Or, it decided something it didn't 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.

[10] 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 at the hearing of the appeal on the merits. At the permission to appeal stage, the Claimant doesn't have to prove her case; she must instead establish that the 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.

[11] 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.

Does the Claimant's appeal have a reasonable chance of success based on a reviewable error the General Division may have made?

[12] The Claimant says that she left her job to retire. She argues that her last job had evolved beyond her skill set—impacting her health—and that she had no option but to

² See section 58(1) of the DESD Act.

leave when she did. She argues that she worked her entire life and sincerely believed that the Commission could help her.

[13] The General Division found that the Claimant received the Commission's reconsideration decision around August 31, 2022. It found that the Claimant appealed that decision to the General Division late on May 8, 2024.

[14] The General Division found that it had no choice but to apply the law, which says that the General Division may extend the time to appeal up to one year after the reconsideration decision is communicated.³ The appeal wasn't heard.

[15] The evidence before the General Division shows that the Claimant received the Commission's reconsideration decision around August 31, 2022. She didn't file her notice of appeal to the General Division until May 8, 2024, which was 20 months later.

[16] This means that more than one year passed between the time the Commission's reconsideration decision was communicated to the Claimant and the time the Claimant duly appealed it to the General Division.

[17] I have great sympathy for the Claimant. But the law clearly says that the General Division can't extend the time to appeal beyond one year. Given her delay of more than a year, the General Division could not hear her challenge about voluntary leaving.

[18] Unfortunately, the law doesn't give the Tribunal the discretion to extend the time to appeal beyond one year to the General Division.⁴

[19] For the reasons I have mentioned above and after reviewing the appeal file, the General Division decision, and considering the Claimant's arguments in support of her application for permission to appeal, I have no choice but to find that the appeal has no reasonable chance of success.

³ See section 52(2) of the DESD Act.

⁴ See, for example, *BT v Canada Employment Insurance Commission*, 2017 CanLII 91786 (SST).

Conclusion

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

Pierre Lafontaine
Member, Appeal Division