



Citation: *TM v Canada Employment Insurance Commission*, 2025 SST 230

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: T. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated February 24, 2025
(GE-25-293)

Tribunal member: Glenn Betteridge

Decision date: March 17, 2025

File number: AD-25-177

Decision

[1] Leave (permission) to appeal is refused. The appeal won't go forward.

Overview

[2] T. M. is the Claimant. He has applied for permission to appeal a General Division decision.

[3] The Claimant's employer let him go because he didn't show up for work or notify the employer.

[4] The Canada Employment Insurance Commission decided the reason he lost his job counted as misconduct under the *Employment Insurance Act*. This meant the Commission could not pay him regular benefits.¹

[5] He appealed the Commission's decision to this Tribunal's General Division. The General Division dismissed his appeal. It decided his employer dismissed him because he was absent and didn't notify the employer. And it decided the Commission proved he knew he had to notify the employer. And the Commission proved he knew the employer might dismiss him if he didn't do that.

[6] Unfortunately for the Claimant, his appeal doesn't have a reasonable chance of success. This means I can't give him permission to appeal.

Issue

[7] Does the Claimant's appeal have a reasonable chance of success?

¹ See section 30 of the *Employment Insurance Act*.

I'm not giving the Claimant permission to appeal

[8] 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 Then I made my decision.

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

The permission to appeal test screens out appeals that don't have a reasonable chance of success⁵

[10] I can give the Claimant permission to appeal if his appeal has a reasonable chance of success.⁶ This means he has to show an **arguable ground of appeal** upon which his appeal **might succeed**.⁷

[11] I can consider four grounds of appeal, which I call **errors**.⁸ The General Division

- used an unfair process or wasn't impartial (a procedural fairness error)
- didn't use its decision-making power properly (a jurisdictional error)
- made a legal error
- made an important factual error

[12] The Claimant's reasons for appeal set out the key issues and central arguments I have to consider.⁹ Because the Claimant is representing himself, I will also look beyond his arguments when I apply the permission to appeal test.¹⁰

² See AD1.

³ See GD2, GD3, GD4, and GD4.

⁴ The hearing lasted approximately half an hour.

⁵ See *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

⁶ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act).

⁷ See *Osaj v Canada (Attorney General)*, 2016 FC 115.

⁸ See section 58(1) of the DESD Act.

⁹ See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13.

¹⁰ The Federal Court has said the Appeal Division should not apply the leave to appeal test mechanistically and should review the General Division record. See for example *Griffin v Canada*

[13] Simply disagreeing with the General Division's findings, or the outcome of the appeal, doesn't show an arguable case the General Division made an error.¹¹

The Claimant's appeal doesn't have a reasonable chance of success

– No arguable case the General Division process was unfair

[14] The Claimant checked the box that says the General Division didn't follow procedural fairness.¹² Then he argues that he didn't abandon his job. He says the General Division is relying on documents from his employer that he never saw.

[15] The Claimant misunderstands the documents the General Division relied on. The General Division refers to documents from the Commission's reconsideration file (GD3). These are notes from the Commission's calls with the employer. The General Division sent a copy of the Commission's reconsideration file—including these notes—to the Claimant.

[16] The General Division process was fair to the Claimant. The Tribunal sent him the Commission's documents. Then it held an oral hearing. The member explained the law about misconduct. She asked the Claimant questions. And she gave him an opportunity to say what happened and to explain why he disagreed with the Commission's decision.

[17] So, the Claimant knew the case he had to meet. And the General Division gave him a full and fair opportunity to present his evidence and make arguments. He didn't question the impartiality of the General Division member. And nothing I read or heard makes me question the member's impartiality.

– No other reason I can give the Claimant permission to appeal

[18] The Claimant is trying to reargue his General Division appeal. Unfortunately for him, the Appeal Division process isn't a do-over. He has to show an arguable case the General Division made an error. He hasn't done that.

(*Attorney General*), 2016 FC 874; *Karadeolian v Canada (Attorney General)*, 2016 FC 615; and *Joseph v Canada (Attorney General)*, 2017 FC 391.

¹¹ See *Griffin v Canada (Attorney General)*, 2016 FC 874 at paragraph 20.

¹² See AD1-3.

[19] I reviewed the General Division decision, file, and hearing recording. I didn't find an arguable case the General Division made an error the law lets me consider.

[20] The General Division correctly identified the legal issue it had to decide, and the two questions it had to consider (paragraphs 8 and 9). Then it decided only that issue, by answering only those questions.

[21] The General Division reviewed and weighed the evidence (paragraphs 11, 16, 17, 18, 19, and 22 to 24). It didn't ignore or misunderstand any relevant evidence. In other words, the relevant evidence supports the General Division decision.

[22] The General Division set out then used the correct legal test (paragraphs 14, 15, and 20). It made the findings of fact and mixed law and fact it had to make to decide the appeal (paragraphs 10, 12, 13, 18, 21, 23, and 25) . And its reasons for the decision are adequate.

Conclusion

[23] The Claimant hasn't shown an arguable case the General Division made an error that might change the outcome in his appeal. And I didn't find an arguable case.

[24] This means his appeal doesn't have a reasonable chance of success. So I can't give him permission to appeal the General Division decision.

Glenn Betteridge
Member, Appeal Division