



Citation: *MM v Canada Employment Insurance Commission*, 2025 SST 204

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: M. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated January 3, 2025
(GE-24-3727)

Tribunal member: Melanie Petrunia

Decision date: March 10, 2025

File number: AD-25-80

Decision

[1] Leave (permission) to appeal is refused. The appeal will not proceed.

Overview

[2] The Applicant, M. M. (Claimant) quit her job and applied for employment insurance (EI) benefits. The Respondent, the Canada Employment Insurance Commission (Commission) decided that the Claimant was disqualified from receiving benefits because she did not have just cause for leaving her job.

[3] The Claimant appealed this decision to the Tribunal's General Division. The General Division found that the Claimant did not have just cause to quit her job because there were reasonable alternatives to leaving when she did. It dismissed her appeal.

[4] The Claimant now wants to appeal the General Division decision to the Tribunal's Appeal Division. However, she needs permission for her appeal to move forward. She argues that the General Division made an important error of fact in its decision.

[5] I have to decide whether there is some reviewable error of the General Division on which the appeal might succeed. I am refusing leave to appeal because the Claimant's appeal has no reasonable chance of success.

Issues

[6] The issues are:

- a) Is there an arguable case that the General Division based its decision on an important error of fact?
- b) Does the Claimant raise any other reviewable errors of the General Division upon which the appeal might succeed?

I am not giving the Claimant permission to appeal

[7] The legal test that the Claimant needs to meet on an application for leave to appeal is a low one: Is there any arguable ground on which the appeal might succeed?¹

[8] To decide this question, I focused on whether the General Division could have made one or more of the relevant errors (or grounds of appeal) listed in the *Department of Employment and Social Development Act* (DESD Act).²

[9] An appeal is not a rehearing of the original claim. Instead, I must decide whether the General Division:

- a) failed to provide a fair process;
- b) failed to decide an issue that it should have, or decided an issue that it should not have;
- c) based its decision on an important factual error;³ or
- d) made an error in law.⁴

[10] Before the Claimant can move on to the next stage of the appeal, I have to be satisfied that there is a reasonable chance of success based on one or more of these grounds of appeal. A reasonable chance of success means that the Claimant could argue her case and possibly win. I should also be aware of other possible grounds of appeal not precisely identified by the Claimant.⁵

¹ This legal test is described in cases like *Osaj v Canada (Attorney General)*, 2016 FC 115 at para 12 and *Ingram v Canada (Attorney General)*, 2017 FC 259 at para 16.

² DESD Act, s 58(2).

³ The language of section 58(1)(c) actually says that the General Division will have erred if it bases its decision on a finding of fact that it makes in a perverse or capricious manner or without regard for the material before it. The Federal Court has defined perverse as “willfully going contrary to the evidence” and defined capricious as “marked or guided by caprice; given to changes of interest or attitude according to whim or fancies; not guided by steady judgment or intent” *Rahi v Canada (Minister of Citizenship and Immigration)* 2012 FC 319.

⁴ This paraphrases the grounds of appeal.

⁵ *Karadeolian v Canada (Attorney General)*, 2016 FC 615; *Joseph v Canada (Attorney General)*, 2017 FC 391.

There is no arguable case that the General Division erred

[11] The law says that a person has just cause for voluntarily leaving their job if, having regard to all the circumstances, they had no reasonable alternative to quitting.⁶ The General Division had to decide whether the Claimant left her job without just cause.

[12] The Claimant worked at a convenience store. She argued that she quit because she was being mistreated by her employer and it was affecting her physical and mental health.⁷ The General Division accepted that there was antagonism from her employer and that the work environment negatively affected her health. These were factors when she decided to quit.⁸

[13] The General Division then considered whether the Claimant had reasonable alternatives to leaving her job when she did. It found that the Claimant could have looked for other work before she quit.⁹

[14] The Claimant argued before the General Division that she couldn't continue working for the employer because of the treatment she was experiencing. She said that she could not concentrate on finding other work until she left.¹⁰ The General Division considered this argument but was not persuaded by it. It found that the Claimant did not make any efforts to look for other work before she quit or during her notice period.¹¹

[15] The General Division considered the Claimant's argument that she couldn't keep working because of the way that she was being treated. It found that the Claimant did not show that she had an urgent need to leave and continued working after providing her resignation. This supported the General Division's determination that the Claimant could have searched for a job first.¹²

⁶ See section 29(c) of the EI Act.

⁷ GD2-8

⁸ General Division decision at paras 36 to 42.

⁹ General Division decision at paras 48 to 52.

¹⁰ General Division decision at para 47.

¹¹ General Division decision at para 50.

¹² General Division decision at para 51.

[16] In her application for leave to appeal, the Claimant argues that the General Division made an important error of fact. For this ground of appeal, the General Division has to have based its decision on a finding of fact that ignored or misunderstood relevant evidence, or where its finding does not rationally follow from the evidence.¹³

[17] The Claimant says that she disagrees with the decision that she left without reason. She argues that her health and sanity was being compromised and she now has two witnesses who can confirm that she was being mistreated by her employer.¹⁴

[18] I find that there is no arguable case that the General Division made an error of fact when it found that it was a reasonable alternative for the Claimant to have tried to find another job before she quit. The General Division acknowledged and considered the Claimant's evidence that she left she had to leave because of her health and mistreatment by her employer.¹⁵ It is not the role of the Appeal Division to reweigh the evidence.

[19] The Claimant says that she now has two witnesses that can confirm that she was not treated well.¹⁶ These witnesses did not testify at the General Division hearing, and it did not err by not considering evidence that wasn't before it. The General Division stated and applied the law correctly when it decided that the Claimant did not have just cause to leave her job.

[20] The Claimant states that she disagrees with the General Division's decision that she resigned without reason. I note that the General Division acknowledged all of the reasons that the Claimant provided for leaving her job when she did. It correctly stated that having a good reason for leaving isn't enough to prove just cause.¹⁷

¹³ See section 58(1)(c) of the EI Act which states "the General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it."

¹⁴ AD1-3

¹⁵ General Division decision at paras 47 to 52.

¹⁶ AD1-3

¹⁷ General Division decision at para 13.

[21] Aside from the Claimant's arguments, I have also considered the other grounds of appeal. The Claimant has not pointed to any procedural unfairness on the part of the General Division, and I see no evidence of procedural unfairness. There is no arguable case that the General Division made an error of jurisdiction or an error of law.

[22] The Claimant has not identified any errors of the General Division upon which the appeal might succeed. As a result, I am refusing leave to appeal.

Conclusion

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

Melanie Petrunia
Member, Appeal Division