



Citation: *RT v Canada Employment Insurance Commission*, 2025 SST 758

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: R. T.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated June 24, 2025
(GE-25-1319)

Tribunal member: Elsa Kelly-Rhéaume

Decision date: July 24, 2025

File number: AD-25-456

Decision

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

Overview

[2] R. T. is the Claimant. She wants permission to appeal the General Division decision that dismissed her appeal. The General Division decided that the income the Claimant received (vacation pay) was earnings and was properly allocated by the Canada Employment Insurance Commission (Commission).

[3] The Commission decided that income is considered earnings under the Employment Insurance Regulations.¹ The Commission had initially decided that the vacation pay the Claimant received from her employer when her contract ended had to be allocated starting February 9, 2025. It applied a total of \$5,832 from February 9, 2025, to March 8, 2025, and a balance of \$577 against her benefits for the week of March 9, 2025. The Commission reconsidered its decision and decided to uphold it.²

[4] The Claimant appealed the Commission's reconsideration decision to the General Division. The General Division dismissed her appeal.³

[5] The Claimant then applied for permission to appeal the General Division decision to the Appeal Division.

[6] I find that the Claimant's appeal doesn't have a reasonable chance of success. I can't give her permission to appeal.

Issues

- a) Does the Claimant's appeal have a reasonable chance of success on the basis that the General Division breached the principles of procedural fairness?

¹ See GD3-23.

² See GD3-34.

³ See AD1-14.

- b) Does the Claimant's appeal have a reasonable chance of success on the basis that the General Division made a reviewable error?

I am not giving the Claimant permission to appeal

[7] The Claimant hasn't shown that her appeal has a reasonable chance of success based on one of the grounds of appeal that would allow me to intervene.

[8] The Appeal Division can only intervene if the General Division has:

- proceeded in a way that was unfair
- acted beyond its powers or refused to exercise those powers
- made an error in law
- based its decision on an important error of fact⁴

[9] The law states that I must refuse leave to appeal if I am satisfied that the appeal has no reasonable chance of success.⁵ A reasonable chance of success means that the Claimant has an arguable case.⁶

There is no arguable case that the General Division didn't follow procedural fairness

[10] The Claimant says that the General Division didn't follow procedural fairness. However, the Claimant's arguments don't point to any specific error made by the General Division that would constitute a breach of procedural fairness.

[11] In the Claimant's application to the Appeal Division, she checked the box stating that the General Division didn't follow the rules of procedural fairness.⁷ In her more detailed explanation, she said that it was her first time getting vacation pay in Canada,

⁴ Section 58(1) of the *Department of Employment and Social Development Act* (DESD Act). These are the grounds of appeal.

⁵ Section 58(2) of the DESD Act.

⁶ See *Osaj v Canada (Attorney General)*, 2016 FC 115.

⁷ See AD1-3.

and that she didn't know how the system works. She tried to get her vacation pay while she was still working. She stated that her husband receives sickness benefits, so she worked hard to make money for her kids' education and other expenses. She points to her lack of knowledge. She says that if she can get Employment Insurance (EI) benefits, she will have more money to feed her family. She wishes to obtain EI benefits from February 9, 2025.

[12] The Claimant's explanations don't point to any specific error in the General Division decision. When a claimant doesn't identify any specific error that might have been made, their application for leave to appeal must be refused.⁸

[13] Rather, the Claimant disagrees with the outcome of the decision. She mentions that she is the main breadwinner in her family and that she worked hard for that vacation pay. She says that she didn't take vacation days so that she could accumulate more money.

[14] In essence, the Claimant wishes the law were different and that her vacation pay didn't have to be allocated to her first weeks after she lost her job. That is quite different from raising an arguable case about a potential error of procedural fairness.

[15] I am sympathetic to the Claimant's concerns about being the main breadwinner in her family. However, the Tribunal can't ignore the law, even for compassionate reasons.⁹ The law is clear that the vacation pay the Claimant received in this case counts as earnings, and that those earnings must be allocated starting on the first week of the separation from employment, as the General Division described in its decision.¹⁰

[16] The Claimant hasn't made an arguable case for how the General Division breached the principles of procedural fairness. The Claimant had the opportunity to

⁸ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 28.

⁹ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 30.

¹⁰ See AD1-13.

understand the case against her and respond to it, which is the central requirement in evaluating procedural fairness.¹¹

[17] The Claimant had time to provide documents and arguments to the General Division. She hasn't shown that she was unable to explain her point of view, or that the General Division was unfair or biased in its assessment of her case. The Claimant didn't show an arguable case that the General Division failed to give her a full and fair hearing.

There is no arguable case that the General Division made any other reviewable error

[18] I reviewed the General Division decision and the documents it considered. I also listened to the General Division hearing recording to see if there is an arguable case that it made any other reviewable error not mentioned by the Claimant.¹²

[19] While I do find that the General Division has made some clerical errors in its decision when looking at what the Commission decided, they aren't significant factual errors and don't change the outcome of the decision.

[20] First, the General Division says that the Commission made an error in the amount of vacation pay that the Claimant received.¹³ However, that statement is incorrect. The General Division said in its decision that the Commission had only considered that the Claimant received \$5,832.00 in vacation pay.¹⁴ The General Division seems to have misread the Commission's initial decision, as it had broken down the amount of vacation pay received into two amounts: \$5,832 to be applied from February 9, 2025, to March 8, 2025, and then \$577 to be applied for the week of March 9, 2025.¹⁵ The total comes to \$6,409, which is the rounded-up amount stated by the General Division in its decision (\$6,408.64).¹⁶

¹¹ See *Ponomarov v Canada (Attorney General)*, 2025 FC 328, at paragraph 34.

¹² See *Karadeolian v Canada (Attorney General)*, 2016 FC 615.

¹³ See AD1-9.

¹⁴ See AD1-9 at paragraph 6.

¹⁵ See GD3-23.

¹⁶ See AD1-9 at paragraph 7.

[21] Both the Commission and the General Division allocated the same total amount, and the Claimant hasn't contested the amounts considered by the General Division in its decision. The General Division's error isn't one that would qualify as "an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it."¹⁷

[22] I find that the General Division made another clerical error when explaining the amounts of earnings that the Commission allocated every week. First, the General Division correctly said that the amount to be allocated per week was \$1,458.¹⁸ In the following sentence, the General Division incorrectly typed out the amount as "\$1,4508." The General Division mistakenly typed out this amount several times in its decision by adding a "0." It is obvious, however, that these typos have no impact on the outcome of the General Division decision. The General Division's dismissal of the Claimant's appeal simply confirmed the Commission's decision, in which there were no typos of that nature. These typos haven't impacted the Claimant's case in any way.

[23] I find that there is no arguable case that these clerical errors are important factual errors. The Claimant has never contested the amounts discussed by the Commission or the General Division. She simply wishes she could have received EI benefits starting on February 9, 2025.

Conclusion

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

Elsa Kelly-Rhéaume
Member, Appeal Division

¹⁷ Section 58(1)(c) of the DESD Act.

¹⁸ See AD1-13 at paragraph 37.