



Citation: *LS v Canada Employment Insurance Commission*, 2025 SST 1375

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant: L. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: General Division decision dated November 18, 2025
(GE-25-2833)

Tribunal member: Glenn Betteridge

Decision date: December 23, 2025

File number: AD-25-807

Decision

[1] Leave (permission) to appeal is denied.

[2] This means L. S.'s appeal won't go forward.¹ And the General Division decision stands unchanged.

Overview

[3] L. S. is the Claimant in this case. She has applied for permission to appeal a General Division decision. I will give her permission if she has a reasonable chance of winning her appeal.

[4] The General Division decided the Claimant didn't have just cause for quitting her job when she did. Because quitting wasn't her only reasonable alternative in the circumstances.² Instead of quitting she could have asked her employer for a leave or got medical advice to quit her job for health reasons. Because she didn't have just cause, the General Division disqualified her from getting benefits.³

[5] The Claimant argues the General Division didn't follow procedural fairness. She says her work atmosphere was intolerable. But her employer did nothing about it. She argues her employer constructively dismissed her. And she says the Commission paid her EI in a 2002 claim, without a doctor's note.

[6] There's an arguable case the General Division made a legal error in its decision. Unfortunately for the Claimant, this error doesn't give her a reasonable chance of winning her appeal. Because it doesn't affect the outcome. There isn't an arguable case the General Division made an error when it decided she had reasonable alternatives to quitting.

¹ The Appeal Division process has two steps. First, a person applies for permission to appeal a General Division decision. If they don't get permission, their appeal can't go forward. Second, if they get permission, they get to argue their case in writing or at a hearing.

² See section 29(c) of the *Employment Insurance Act* (EI Act).

³ See section 30 of the EI Act.

Issue

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

I'm not giving the Claimant permission to appeal

The permission to appeal test screens out appeals without a reasonable chance of success⁴

[8] I will give permission if there's an arguable case the General Division made an error that gives the Claimant a reasonable chance of winning her appeal.⁵ The law says I can consider four types of errors—the General Division used an unfair procedure, or made a jurisdictional error, a legal error, or an important factual error.⁶

Procedural fairness is about the process, not the General Division's findings or the outcome in the appeal

[9] The Claimant checked the box that says the General Division didn't follow procedural fairness.⁷ But she hasn't explained how the General Division made that error. So this ground of appeal can't succeed.⁸

[10] She might be disagreeing with the General Division's finding she had reasonable alternatives to quitting. Or disagreeing with the outcome in her appeal. She might be arguing the reasonable alternatives finding and the outcome aren't fair to her. But procedural fairness is about the **process** the General Division used—not its findings or decision.

The General Division had to use the EI Act, not the law about constructive dismissal

[11] The Claimant argues she was constructively dismissed.⁹ The General Division didn't address this issue. But it didn't have to. The courts have decided constructive

⁴ See section 58(2) of the *Department of Employment and Social Development Act* (DESD Act); *Paradis v Canada (Attorney General)*, 2016 FC 1282 at paragraph 32.

⁵ See *Osaj v Canada (Attorney General)*, 2016 FC 11.

⁶ See section 58(1) of the DESD Act.

⁷ See AD1-3.

⁸ See *Twardowski v Canada (Attorney General)*, 2024 FC 1326 at paragraph 59.

⁹ See AD1-3.

dismissal isn't part of the legal test for voluntary leaving or for just cause.¹⁰ The General Division had to consider the Claimant's circumstances at the time she quit. It recognized that part of the legal test from section 29(c) of the EI Act (paragraphs 13, 15, 16). Then used it (paragraphs 17 to 25).

[12] The rest of the Claimant's reasons for appeal basically reargue her General Division appeal.¹¹ That's not the purpose of an application to the Appeal Division. She has to show an arguable case the General Division made an error. But her reasons for appeal don't point to—let alone explain—how the General Division made an error the law lets me consider.

The General Division's decision is supported by the relevant evidence

[13] The Claimant is representing herself. So I reviewed the documents in the General Division file.¹² Then read the General Division decision paying close attention to the law and evidence it used to reach its decision.

[14] There's no arguable case the General Division made an important factual error. I didn't find relevant evidence the General Division ignored or misunderstood. This tells me the General Division's decision is supported by the evidence.

An arguable case the General Division made a legal error, but it doesn't give the Claimant a reasonable chance of success

[15] The General Division gave the Claimant the benefit of the doubt in paragraph 21 of its decision. And accepted her evidence that she spent most of her shift at her workstation.

[16] But the courts have said the benefit of the doubt section of the EI Act (section 49(2)) only applies when the Commission is deciding a claim.¹³ Not when a

¹⁰ See *Canada (Attorney General) v Peace*, 2004 FCA 56 at paragraphs 14 to 17.

¹¹ See AD1-3. Compare what she writes there with her reason for appeal at the General Division in GD2-6, and GD2-6 to GD2-11.

¹² See GD2, GD3, GD4, GD7, GD8, GD8A, and GD8B.

¹³ See *Chaoui v Canada (Attorney General)*, 2005 FCA 66 at paragraph 4.

tribunal is hearing an appeal from a Commission decision. It seems the General Division didn't understand this. So there's an arguable case it made a legal error.

[17] Unfortunately for the Claimant, even if the General Division made that legal error, it would not change its finding she had reasonable alternatives to quitting (paragraphs 26 to 39). The General Division made the potential error in a different part of the decision. And the potential error helped her prove a circumstance that existed when she quit. In other words, the potential error benefitted her, not the Commission. So even if the General Division made this error, correcting the error would not give her a reasonable chance of winning her appeal.

Conclusion

[18] The Claimant's appeal doesn't have a reasonable chance of success. This means her appeal can't go forward.

Glenn Betteridge
Member, Appeal Division