Citation: *AA v Canada Employment Insurance Commission*, 2026 SST 125

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	A. A.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated January 6, 2026 (GE-25-3361)

Tribunal member:	Elizabeth Usprich
Decision date:	February 23, 2026
File number:	AD-26-51

Decision

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

Overview

[2] A. A. is the Applicant. She applied for Employment Insurance (EI) benefits. The Canada Employment Insurance Commission (Commission) decided the Applicant was disentitled to EI benefits because she was dismissed for her own misconduct.

[3] The Applicant appealed to the Social Security Tribunal's (Tribunal) General Division. The General Division agreed with the Commission. It also found the Applicant lost her job due to her own misconduct.

[4] The Applicant has asked for permission to appeal to the Appeal Division. She says her employer wrongfully dismissed her. She says the General Division made errors.

[5] I am denying the Applicant's request for permission to appeal because there is no reasonable chance of success.

Issues

[6] The issues in this appeal are:

a) Is there an arguable case the General Division made an error of law when it applied employment insurance law's test for misconduct?

b) Is there an arguable case the General Division made an important error of fact with how it considered the Applicant's testimony and other evidence?

I am not giving the Applicant permission to appeal

[7] An appeal can only go ahead if the Appeal Division gives an applicant permission to appeal.[1] I have to be satisfied that the appeal has a reasonable chance of success.[2] There has to be an arguable ground upon which the appeal might succeed.[3]

[8] There are only certain grounds of appeal that the Appeal Division can consider.[4] Briefly, the Applicant has to show the General Division did one of the following:

- It acted unfairly in some way.
- It decided an issue it shouldn't have, or didn't decide an issue it should have. This is also called an error of jurisdiction.
- It made an error of law.
- It based its decision on an important error of fact.

[9] So, for the Applicant's appeal to go ahead, I have to find there is a reasonable chance of success on any of those grounds. The Applicant says the General Division made an error of law and an important error of fact. The Applicant says there is a recent court case that says her employer wrongfully terminated some employees. She feels this should entitle her to EI benefits.

There is no arguable case the General Division made an error of law when it applied employment insurance law's test for misconduct

[10] The EI Act doesn't say what the test is for misconduct. So, the General Division had to look at what case law says. The General Division did this.[5] The General Division had to consider whether there was misconduct and if that led to the Applicant being let

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[1] See section 56(1) of the Department of *Employment and Social Development Act* (DESD Act).
[2] See section 58(2) of the DESD Act.
[3] See *Hazaparu v Canada (Attorney General)*, 2024 FC 928 at paragraph 13; *O'Rourke v Canada (Attorney General)*, 2018 FC 498; *Osaj v Canada (Attorney General)*, 2016 FC 115 at paragraph 12; and *Ingram v Canada (Attorney General)*, 2017 FC 259 at paragraph 16.
[4] See section 58(1) of the DESD Act. The grounds listed are also known as errors.
[5] See the General Division decision at paragraphs 14 to 16.

go. For misconduct to be found the Applicant must have done something wilful, but no wrongful intent is required.

[11] In this case, the General Division decided the Applicant's actions were wilful. She intentionally looked at things she shouldn't have. The Applicant's employer decided this was a breach of the employee code of conduct and let her go. The Applicant has maintained she didn't think she would be let go because of her actions. The General Division considered this. It decided the Applicant ought to have known being let go was a real possibility.[6]

[12] The Applicant is now rearguing her position. But it isn't the role of the Appeal Division to reweigh the evidence before the General Division. The Applicant says an Ontario court found her employer wrongfully dismissed a different employee. She seems to be suggesting that this court decision shows she shouldn't have been let go. She thinks the General Division made an error of law.

[13] The General Division explained the legal test for misconduct. The General Division considered the Applicant's testimony. The Applicant says she wasn't malicious with her actions. She repeatedly said her actions were just quick "in and out".[7] But that isn't the test for misconduct under the EI Act. A person doesn't have to be malicious, or even have the intent to do something wrong. Instead, the actions must be wilful. The Applicant has never denied that she did the actions. So, there is no arguable case the General Division made an error of law in this regard.

[14] The Applicant has repeatedly said that she didn't think she could be let go for her actions.[8] The Applicant said she read her employer's Code of Conduct when she was first hired 11 years ago. But she said she didn't read the annual refresher provided by

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[6] See the General Division decision at paragraphs 36 to 38. Note: the General Division's decision has numbering issues starting at paragraph 37. This paragraph mistakenly reverts to 35. I have counted the paragraphs and have referred to what they should have been numbered.
[7] Listen to the General Division hearing recording at 00:20:38, 00:21:49, and 00:27:58.
[8] See GD3-41 of the Commission's Reconsideration File; Listen to the General Division hearing recording at 00:32:22. See also AD1-6 the Applicant's application to the Appeal Division.

her employer.[9] The General Division considered the Applicant's position and testimony.[10]

[15] The General Division weighed the evidence before it and found the Applicant should have known that termination was a real possibility.[11] I don't have the authority to intervene on questions of how the law was applied to the particular facts of the case. That is an error of mixed fact and law.

[16] The Applicant also has repeatedly said she felt her employer's punishment was harsh. The General Division considered this argument.[12] The Federal Court and Federal Court of Appeal have been extremely clear in numerous cases.[13] The focus is on the employee's actions and **not** the employer's. This means if an employee disagrees with an action by their employer, there are other avenues to bring their dispute.[14] Here, the Applicant told the General Division she was pursuing a wrongful termination lawsuit against her employer.[15]

[17] The Applicant has now put forward the Ontario Superior Court case of *Ghazvini* to support that she was wrongfully dismissed.[16] It isn't the role of the Social Security Tribunal to decide if the Applicant was wrongfully dismissed. The focus is on what the Applicant did or didn't do.[17]

[18] The General Division identified the legal test. It considered the Applicant's testimony. It then applied the law to the facts of the case. There is no arguable case the

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[9] Listen to the General Division hearing recording at 00:21:04.
[10] See the General Division decision at paragraphs 30 to 35.
[11] See the General Division decision at paragraphs 36 to 38. Note: the General Division's decision has numbering issues starting at paragraph 37. This paragraph mistakenly reverts to 35. I have counted the paragraphs and have referred to what they should have been numbered.
[12] See the General Division decision at paragraphs 31 and 33.
[13] Recently, the Federal Court of Appeal addressed this in *Sullivan v Canada (Attorney General)*, 2024 FCA 7 at paragraph 5. See also *Canada (Attorney General) v McNamara*, 2007 FCA 107 at paragraph 23.
[14] See *Canada (Attorney General) v McNamara*, 2007 FCA 107 at paragraph 23 and see also *Cecchetto v Canada (Attorney General)*, 2023 FC 102 at paragraphs 32 and 46.
[15] Listen to the General Division hearing recording at 00:53:50 and see the General Division decision at paragraph 35.
[16] See *Ghazvini et al. v. Canadian Imperial Bank of Commerce*, 2025 ONSC 5218 (CanLII).
[17] See *Canada (Attorney General) v McNamara*, 2007 FCA 107 at paragraph 22.

General Division made an error of law with how it applied the test for misconduct under the EI Act.

There is no arguable case the General Division made an important error of fact with how it considered the Applicant's testimony and other evidence

[19] An error of fact happens when the General Division makes its decision based on an erroneous (wrong) finding of fact that was "made in a perverse or capricious manner or without regard for the material before it".[18] This means the General Division had to ignore, misunderstand or overlook the evidence in some way.

[20] The courts have also made it clear that the Appeal Division can only step in when the General Division's findings are "unreasonably detached from the evidentiary record."[19] The General Division doesn't have to mention every piece of evidence.[20] The Applicant gave several notations about what she thought were mistakes in the General Division's decision.[21]

[21] The Applicant noted she thought her employer didn't provide her with enough time to review the Code of Conduct annually. As well, she believes the Code of Conduct was vague. She noted paragraph 20 of the General Division's decision, presumably as a failure to account for her testimony. However, the General Division dealt with this at paragraphs 32 and 33.

[22] The Applicant refers to paragraph 28 and says she didn't believe she had crossed any lines. Yet, the Applicant testified to the General Division that she acknowledged she did overstep.[22] She also testified that she knew she shouldn't have accessed her husband's information, but she thought if it came up she would just get a warning.[23] The Applicant's testimony supports what the General Division wrote.

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[18] See section 58(1)(c) of the DESD Act.
[19] See *Ponomarov v Canada (Attorney General),* 2025 FC 328, at paragraph 28.
[20] See *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319 at paragraph 39.
[21] See AD1-6 of the Applicant's application to the Appeal Division.
[22] Listen to the General Division hearing recording at 00:27:55.
[23] Listen to the General Division hearing recording at 00:38:44.

[23] The Applicant referred to paragraphs 30, 32, 35 and 36 in the General Division's decision to shift the focus to her employer's actions. Specifically which code of conduct the employer was relying on and whether it was easy to understand. As noted above, the employer's actions aren't at issue in an EI appeal for misconduct. The focus is on what a particular claimant did or didn't do. The General Division was properly focussed on the Applicant. There is no arguable case these are important errors of fact.

[24] The General Division considered the Applicant's arguments. So, it can't be said that it overlooked, misunderstood, or ignored the Applicant's arguments. The Applicant is attempting to reargue her case to the Appeal Division, with the hope of a different outcome. It isn't the role of the Appeal Division to reweigh the evidence that was before the General Division.

– **There are no additional errors in the General Division decision**

[25] Because the Applicant is self-represented, I reviewed the file, listened to the hearing recording, and looked at the decision the Applicant is appealing. I haven't found any reviewable error that the General Division may have made.[24]

Conclusion

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

Elizabeth Usprich
Member, Appeal Division

[24] The Federal Court has said I must do this in decisions like *Griffin v Canada (Attorney General)*, 2016 FC 874 and *Karadeolian v Canada (Attorney General)*, 2016 FC 615.