Citation: *KO v Canada Employment Insurance Commission*, 2026 SST 188

Social Security Tribunal of Canada
Appeal Division

Leave to Appeal Decision

Applicant:	K. O.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	General Division decision dated February 28, 2026 (GE-26-258)

Tribunal member:	Stephen Bergen
Decision date:	**March 10, 2026**
File number:	AD-26-150

Decision

[1] I am refusing leave (permission) to appeal. The appeal will not proceed.

Overview

[2] K. O. is the Applicant. I will call him the Claimant because this application is about his claim for Employment Insurance (EI benefits). The Respondent is the Canada Employment Insurance Commission, which I will call the Commission.

[3] The Claimant left his job because he received a letter from his General Manager (GM) that was critical of his work. He also believed that his work environment was toxic. He said his supervisor was antagonistic, he was being discriminated against, and he was bullied and harassed. He suggested that these conditions represented a danger to his health and safety.

[4] The Claimant applied for EI benefits, but the Commission decided that he left his job voluntarily and without just cause. So, it could not pay him benefits. The Claimant asked the Commission to reconsider, but it would not change its decision.

[5] The Claimant appealed to the General Division of the Social Security Tribunal. The General Division agreed with the Commission’s decision, and it dismissed his appeal. Now, the Claimant is asking the Appeal Division for permission to appeal.

[6] I am refusing leave to appeal. The Claimant has not made out an arguable case that the General Division made an error of law, or any other error that I can consider.

Issue

[7] Is there an arguable case that the General Division made an error of law when it found that discrimination was not a relevant circumstance?

[8] Is there an arguable case that the General Division made some other error that I can consider?

I am not giving the Claimant permission to appeal

[9] For the Claimant's application for leave to appeal to succeed, his reasons for appealing would have to fit within the "grounds of appeal." The grounds of appeal identify the kinds of errors that I can consider.

[10] I may consider only the following errors:

a) The General Division hearing process was not fair in some way.
b) The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide (error of jurisdiction).
c) The General Division based its decision on an important error of fact.
d) The General Division made an error of law when making its decision.[1]

[11] To grant this application for leave and permit the appeal process to move forward, I must find that there is a reasonable chance of success on one or more grounds of appeal. Other court decisions have equated a reasonable chance of success to an "arguable case."[2]

Error of law

– **Did the General Division make an error of law in how it decided that discrimination was not a relevant circumstance?**

[12] The Claimant selected one ground of appeal in his application to the Appeal Division, which is the ground associated with an error of law. In his more detailed reasons for appealing the General Division decision, he explains that he disagrees with the General Division's finding that the General Manager's letter to him was not discrimination under the law.

[13] There is no arguable case that the General Division made an error of law.

[1] This is a plain-language version of the grounds of appeal. The full text is in section 58(1) of the *Department of Employment and Social Development Act* (DESDA).
[2] See *Canada (Minister of Human Resources Development) v Hogervorst*, 2007 FCA 41; and *Ingram v Canada (Attorney General)*, 2017 FC 259.

[14] Under the *Employment Insurance Act* (EI Act), claimants may be disqualified from receiving benefits, if they leave their employment without just cause. Just cause is said to exist where a claimant has no reasonable alternative to leaving having regard to all the circumstances.[3]

[15] The EI Act lists a number of circumstances that the General Division must consider where they are suggested by the facts. "Discrimination on a prohibited ground of discrimination under the *Canadian Human Rights Act* (CHRA)," is one of the listed circumstances.[4]

[16] The Claimant worked in turf management at a golf course and was responsible for maintaining the grounds. He had been critical of the public board of the golf course and its management, which were responsible for how the golf course grounds were managed. Shortly afterwards, the GM sent him what he terms a disciplinary letter.

[17] The letter outlined the GM's view of the deficiencies in the grounds. It suggested that the Claimant was responsible and described what the GM expected the Claimant to do in response. It also outlined the possible consequences if the claimant's remedial efforts did not satisfy her expectations.

[18] The Claimant's view is that the General Division should have accepted that this letter was discriminatory. He references section 9 of the CHRA. Section 9 says that it is a discriminatory practice for an employee organization, on a prohibited ground of discrimination, to "deprive the individual of employment opportunities or otherwise adversely affect the status of the individual, where the member is a member of the organization."

[19] Section 9 has no application to the Claimant. It applies only to employee organizations. The Claimant asserts he was discriminated against by the employer,— not by an employee organization. Furthermore, discrimination must be based on the prohibited grounds identified in section 3(1) of the CHRA. The General Division listed

[3] See section 29(c) of the EI Act.
[4] See section 29(c)(iii) of the EI Act

the prohibited grounds in its decision, noting that the Claimant has not argued that the employer discriminated against him on any of the prohibited grounds.[5]

[20] The Claimant also argued that section 14(1)(c) of the CHRA applied. Section 14(1)(c) stated that it is discriminatory for an employer organization to harass an individual in matters related to employment, on a prohibited ground of discrimination.

[21] Once again, the CHRA considers discrimination as it relates to the prohibited grounds only, and the EI Act is also clear that the “discrimination” circumstance, is discrimination on a prohibited ground.

[22] I note that “harassment” is listed as a separate circumstance in the EI Act, that may exist regardless of the applicability of the CHRA.[6] But the General Division did also consider whether the Claimant experienced harassment that may have affected his reasonable alternatives to leaving.

[23] Finally, the Claimant noted that section14.1 of the CHRA speaks of retaliation for filing a complaint. In his argument before the General Division, he identified his complaint as his initial criticism of past ground management practices. However, section 14.1 concerns a complaint under Part III of the CHRA, which is a complaint of a discriminatory practice per section 40(1) of the CHRA. Discriminatory practices are identified in sections 5 to 14.1. All are practices involving discrimination on prohibited grounds. There was no evidence the Claimant was discriminated against based on a prohibited ground.

[24] There is no arguable case that the General Division made an error of law by misinterpreting the CHRA or by failing to apply it in the Claimant’s circumstances, because he was not discriminated against on a prohibited ground.

[5] See paras 34 and 35 of the General Division decision.
[6] See section 29(c)(i) of the EI Act.

Other errors

[25] The Claimant did not argue that the General Division made any other error. However, he is unrepresented. He may not have known how best to argue his case.

[26] The Federal Court has instructed the Appeal Division to look beyond the grounds of appeal identified by unrepresented applicants, at the leave to appeal stage.[7] So, I reviewed the record to see if the General Division may have ignored or misunderstood evidence that could have been relevant and important to its decision.

[27] In his application, the Claimant also noted that he experienced antagonism from his GM from the start of his contract. The General Division had found that the GM did not engage in antagonistic behaviour. So, I paid particular attention to the evidence that could be relevant to this finding.

[28] The Claimant had argued that the GM was antagonistic, principally relying on the final emailed letter that the GM sent him before he quit. He also implied that the GM intentionally gave him poor labourers to accomplish his work.

[29] The General Division considered the evidence. It found that the GM's letter was a critique of his work that was within the rights of the employer. The letter was neither a personal attack nor did it use inappropriate language[8].

[30] The General Division also commented on an inconsistency in the Claimant's evidence about his labourers. He had said he was made to work with useless labourers who were sabotaging the work he asked them to do, but he also talked about their diligence in fixing ball marks on the green, which was one of his priorities.

[31] In reviewing the record, I did not discover any evidence that was ignored or misunderstood that could support an argument that the General Division made an important error of fact when it decided that the GM's behaviour was not antagonistic.

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[7] *Karadeolian* v. *Canada (Attorney General)*, 2016 FC 615.
[8] See para 49.

[32] I note that the Claimant’s application for benefits states that the GM had not been happy that he was hired.[9] He also testified to this, but could not say why this was the case.[10] The General Division’s decision did not mention this evidence, but it does not need to refer to every piece of evidence - particularly when the evidence would be of little use to the General Division as it made findings of fact.[11] This was just the Claimant’s unsupported opinion of the GM`s attitude towards him, and it was not necessarily related to any antagonism.

[33] Likewise, I did not discover evidence that was ignored or misunderstood in connection with harassment, danger to the Claimant’s health or safety, or toxic work conditions, or in its findings that the Claimant had reasonable alternatives to quitting.

[34] So, there is no arguable case that the General Division made an error of fact.

[35] I expect that the Claimant disagrees with how the General Division evaluated of the evidence. However, the Appeal Division cannot interfere with how the General Division evaluated or weighed the evidence.[12] This task is left to the General Division as the trier of fact.

[36] The Claimant’s appeal has no reasonable chance of success.

Conclusion

[37] I am refusing permission to appeal. This means that the appeal will not proceed.

Stephen Bergen

Member, Appeal Division

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[9] See GD3-16.

[10] Listen to the audio record of the General Division at timestamp 00: 27:55 to 00:28:15.

[11] See *Simpson v Canada (Attorney General),* 2012 FCA 82.

[12] See, for example: *Hideq v Canada (Attorney General)*, 2017 FC 439, *Parchment v Canada (Attorney General)*, 2017 FC 354, *Johnson v Canada (Attorney General)*, 2016 FC 1254, *Marcia v Canada (Attorney General)*, 2016 FC 1367.