



Citation: *X v Canada Employment Insurance Commission and PN*, 2026 SST 231

Social Security Tribunal of Canada Appeal Division

Leave to Appeal Decision

Applicant:	X
Respondent:	Canada Employment Insurance Commission
Added Party:	P. N.
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Decision under appeal:	General Division decision dated February 24, 2026 (GE-26-438)
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Tribunal member:	Pierre Lafontaine
Decision date:	March 24, 2026
File number:	AD-26-186

Decision

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

Overview

[2] The Claimant lost her job. The Applicant (Employer) said that the Claimant was dismissed for time theft and irrevocable breach of trust. The Claimant cited minor misconduct as the reason for dismissal.

[3] The Respondent (Commission) decided that the Claimant lost her job because of misconduct. Because of this, the Commission decided that the Claimant is disqualified from receiving EI benefits. After an unsuccessful reconsideration, the Claimant appealed to the General Division of the Tribunal.

[4] On February 11, 2026, the General Division sent a letter to the Employer asking if they wished to be an added party to the appeal. The letter specified that the Employer had to demonstrate a direct interest in the appeal.¹ On February 23, 2026, the Employer requested to be an added party to the appeal and provided the reasons for their request.

[5] On February 24, 2026, the General Division found that the Employer did not demonstrate a direct interest in the appeal. It refused the Employer's request to be an added party.

[6] The Employer now seeks leave to appeal of the General Division's decision to the Appeal Division.

[7] I must decide whether the Employer raised some reviewable error of the General Division upon which the appeal might succeed.

¹ GD5-1 to GD5-4.

[8] I refuse leave to appeal because the Employer's appeal has no reasonable chance of success. This means that the General Division decision stands. The Employer will not be added as a party to the proceedings.

Issue

[9] Does the Employer raise some reviewable error of the General Division upon which the appeal might succeed?

Analysis

[10] The law specifies the only grounds of appeal of a General Division decision.² These reviewable errors are that:

1. The General Division hearing process was not fair in some way.
2. 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.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

[11] An application for leave to appeal is a preliminary step to a hearing on the merits. It is an initial hurdle for the Employer to meet, but it is lower than the one that must be met on the hearing of the appeal on the merits. At the leave to appeal stage, the Employer does not have to prove its case but must establish that the appeal has a reasonable chance of success based on a reviewable error. In other words, that there is arguably some reviewable error upon which the appeal might succeed.

[12] Therefore, before I can grant leave, I need to be satisfied that the reasons for appeal fall within any of the above-mentioned grounds of appeal and that at least one of the reasons has a reasonable chance of success.

² Section 58(1) of the *Department of Employment and Social Development Act*.

Does the Employer raise some reviewable error of the General Division upon which the appeal might succeed?

[13] The Employer seeks leave to appeal of the General Division's decision to refuse its request to be an added party to the proceedings.

[14] The Employer submits that the facts documented by the Employer clearly demonstrate a deliberate manipulation intended to simulate working time and, consequently, a misappropriation of paid time. Such behavior, established through factual evidence, does not meet the expectations of an employee and meets the recognized criteria for misconduct under the Employment Insurance program.

[15] The Employer further submits that the account of events presented as part of the current procedure differs substantially from the information in its possession. This discrepancy makes the Employer's participation essential to allow the Tribunal to access the complete set of factual elements, ensuring a full, accurate, and faithful analysis of the actual circumstances.

[16] The Employer finally submits that eligibility for benefits funded by Canadians, including the portion borne by the Employer, must be based on a rigorous assessment of the facts that led to the conclusion of misconduct.

Added Party - Direct Interest

[17] The General Division had to decide whether the Employer should be an added party to the appeal. To do this, it had to determine whether the Employer had a direct interest in the appeal.

[18] On February 23, 2026, the Employer requested to be an added party to the appeal and provided the reasons for their request.

[19] The Federal Court of Appeal has provided some guidance about when a direct interest exists.³ A party has a “*direct interest*” when its legal rights are affected, legal obligations are imposed upon it, or it is prejudicially affected in some direct way.

[20] There is no evidence before the General Division suggesting that the Employer is affected in this way.

[21] Without doubt, the Employer is genuinely concerned about the outcome of the Claimant’s application for EI benefits following their decision to dismiss her for time theft and irrevocable breach of trust. However, this interest does not mean that the Employer’s legal rights will be affected or that any legal obligations will be imposed upon them. Nor does it mean that they will be prejudicially affected in some direct way.

[22] I note that the Employer participated in the Commission's investigation and that its statements form part of the evidence that will be presented to the General Division.⁴ If the Commission needs additional evidence, it could choose to call the Employer as a witness.

[23] In its application for leave to appeal, the Employer has not identified any reviewable errors such as jurisdiction or any failure by the General Division to observe a principle of natural justice. It has not identified errors in law nor identified any erroneous findings of fact, which the General Division may have made in a perverse or capricious manner or without regard for the material before it, in coming to its decision to refuse the Employer’s request to be an added party.

[24] For the above-mentioned reasons and after reviewing the docket of appeal, the decision of the General Division and considering the arguments of the Employer in support of its request for leave to appeal, I find that the appeal has no reasonable chance of success.

³ See *Forest Ethics Advocacy Association v Canada (National Energy Board)*, 2013 FCA 236.

⁴ Statements from an employer constitute evidence before the General Division, even if the employer is not present at the hearing. See *Caron v Canada (Attorney General)*, 2003 FCA 254. *J. L. v Canada Employment Insurance Commission*, 2018 SST 683, *M. M. v Canada Employment Insurance Commission*, 2017 CanLII 37093.

Conclusion

[25] Leave to appeal is refused. This means that the General Division decision stands. The Employer will not be added as a party to the proceedings.

Pierre Lafontaine
Member, Appeal Division