



Citation: *TM v Canada Employment Insurance Commission*, 2024 SST 1657

Social Security Tribunal of Canada Appeal Division

Decision

Appellant:

T. M.

Respondent:

Canada Employment Insurance Commission

Representative:

Linda Donovan

Decision under appeal:

General Division decision dated
September 13, 2024 (GE-24-2844)

Tribunal member:

Glenn Betteridge

Decision date:

October 28, 2024

File number:

AD-24-612

Decision

[1] I am allowing T. M.'s appeal.

[2] The parties agree the General Division made a legal error. They say I should fix the error by sending the case back to the General Division.

[3] I accept the parties' agreement. I am sending the case back to the General Division for a different member to reconsider.

Background

[4] T. M. is the Claimant. He made a claim for Employment Insurance (EI) regular benefits.

[5] The Canada Employment Insurance Commission (Commission) refused to pay him benefits. The *Employment Insurance Act* (EI Act) says a person who leaves their job can't get benefits unless they had just cause for leaving in all the circumstances.¹ The Commission said the Claimant didn't have just cause, because he had a reasonable alternative to leaving.

[6] The Claimant asked the Commission to reconsider. It maintained its decision. The Claimant appealed to this Tribunal's General Division. It dismissed his appeal.

[7] I gave the Claimant permission to appeal. The parties now agree the General Division made a legal error. They also agree on the outcome. I accept their agreement.

The parties agree on an error and the outcome of the appeal

[8] The parties reviewed and agreed to the following terms, in writing:

- The parties agree the General Division made a reviewable legal error when it didn't consider whether the Claimant was subject to discrimination on a prohibited ground at his workplace.

¹ See section 29(c) and 30(1) of the *Employment Insurance Act* (EI Act).

- The parties agree the Appeal Division should send the Claimant's case back to the General Division to be reconsidered by a different member.²

I accept the parties' agreement

[9] I accept the parties' agreement on the error. They say the General Division made a legal error.

[10] The General Division considered the Claimant's evidence about why he left his supermarket job.³ It made four findings of fact. It called these findings "circumstances that existed at the time" the Claimant left his job. Then it decided the Claimant had a reasonable alternative to quitting given those facts.

[11] Facts are different from the "circumstances" included in section 29(c) of the EI Act.

[12] The four facts the General Division accepted might be evidence of three circumstances listed in section 29(c). For example, the General Division should have considered whether the Claimant's coworkers' comments about his religion and English skills count as discrimination under the *Canadian Human Rights Act*.⁴

[13] But it didn't do that. This means it didn't use the legal test from section 29(c). This is a legal error.

[14] I agree that I should fix that error by sending the case back to the General Division. The General Division needs enough evidence to decide whether a person can use a circumstance—which the legislature says to consider—to show just cause.

[15] The Claimant represented himself. The General Division could have done a better job of actively adjudicating the section 29(c) just cause issue. It could have explained the legal test. And it could have asked the Claimant more questions to get evidence about the circumstances that might have existed when he left his job.

² See AD4, AD5, and AD6.

³ See paragraphs 17 to 20 of the General Division decision.

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

Conclusion

[16] I accept the parties' agreement. I am sending the Claimant's case back to the General Division for a different member to reconsider.

Glenn Betteridge
Member, Appeal Division