

Federal Court



Cour fédérale

Date: 20180716

Docket: T-106-18

Citation: 2018 FC 741

Toronto, Ontario, July 16, 2018

PRESENT: The Honourable Mr. Justice Locke

BETWEEN:

MIKE OMOREGBE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] This is an application by the applicant (Mike Omoregbe) to set aside a decision of the Social Security Tribunal (Appeal Division) (SST-AD) dated November 7, 2017, which refused leave to appeal a decision of the Social Security Tribunal (General Division) (SST-GD) dated March 26, 2017, which denied an appeal of a decision of the Canadian Employment Insurance Commission (CEIC) dated June 8, 2016, which refused to reconsider its decision dated August 28, 2015, which denied the applicant's request for employment insurance benefits on the basis that he had lost his employment as a result of his own misconduct.

[2] The usual time for requesting reconsideration of a decision of the CEIC is 30 days. In the present case, 262 days passed from the CEIC's original decision to the filing of the applicant's request for reconsideration.

[3] The CEIC refused to reconsider its earlier decision on the basis that the applicant had not demonstrated that he satisfied either of the following conditions for reconsideration: (i) a reasonable explanation for the delay in requesting reconsideration, or (ii) a continuing intention to seek reconsideration. The CEIC considered but was not satisfied by the following explanations provided by the applicant: (i) immediately after the original decision, he was looking for work and did not expect to need EI benefits, (ii) his sister passed away and he was abroad as a result from November 28, 2015 to December 28, 2015, (iii) he had a pending claim with the Ministry of Labour, and (iv) he was ignorant and confused as to his right to seek reconsideration.

[4] The SST-GD considered the same criteria of reasonable explanation for the delay and continuing intention to seek reconsideration, and was similarly not satisfied that the applicant met these criteria, citing much the same reasons as given by the CEIC.

[5] The SST-AD stated that it could set aside the decision of the SST-GD only on the following grounds:

- a) If the SST-GD failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- b) If the SST-GD erred in law in making its decision; or

- c) If the SST-GD based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[6] The SST-AD reviewed the findings of the SST-GD and concluded that the applicant had not identified any errors that could satisfy any of the foregoing grounds of appeal. The SST-AD concluded that the appeal had no reasonable chance of success and refused leave to appeal the decision of the SST-GD.

[7] In the present application for judicial review, I must show deference to the decision of the SST-AD, and may only set that decision aside if it is unreasonable: *Canada (Attorney General) v Bernier*, 2017 FC 120 at paras 7-8.

[8] Having reviewed the preceding decisions in this matter, and having considered the applicant's written and oral submissions, I am not convinced that the decision of the SST-AD was unreasonable. In fact, I agree with the SST-AD that the applicant's appeal from the decision of the SST-GD had no reasonable chance of success.

[9] Accordingly, the present application for judicial review will be dismissed.

[10] Further to the respondent's request, the style of cause will be amended to reflect that the correct respondent is the Attorney General of Canada.

JUDGMENT IN T-106-18

THIS COURT'S JUDGMENT is that:

1. The present application is dismissed.
2. The style of cause is amended to reflect that the correct respondent is the Attorney General of Canada.

“George R. Locke”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-106-18

STYLE OF CAUSE: MIKE OMOREGBE v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 16, 2018

JUDGMENT AND REASONS: LOCKE J.

DATED: JULY 16, 2018

APPEARANCES:

Mike Omoregbe

FOR THE APPLICANT
ON HIS OWN BEHALF

Bahaa I. J. Sunallah

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Gatineau, Quebec

FOR THE RESPONDENT