

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20170208**

**Docket: A-151-16**

**Citation: 2017 FCA 28**

**[ENGLISH TRANSLATION]**

**CORAM: PELLETIER J.A.  
GAUTHIER J.A.  
SCOTT J.A.**

**BETWEEN:**

**CHRISTINE CÔTÉ**

**Applicant**

**and**

**DEPARTMENT OF EMPLOYMENT AND  
SOCIAL DEVELOPMENT CANADA**

**Respondent**

Hearing held at Ottawa, Ontario, on February 8, 2017.

Judgment delivered from the bench at Ottawa, Ontario, on February 8, 2017.

**REASONS FOR JUDGMENT OF THE  
COURT BY:**

**SCOTT J.A.**

**Federal Court of Appeal**



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**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the bench at Ottawa, Ontario, on February 8, 2017.)**

**SCOTT J.A.**

[1] We are all of the opinion that this application for judicial review must be dismissed. The Appeal Division of the Social Security Tribunal of Canada (Appeal Division) did not commit a reviewable error by dismissing the applicant's appeal from a decision by the General Division of

the Social Security Tribunal. The General Division found that, as a teacher, the applicant did not meet the requirements of subsection 33(2) of the *Employment Insurance Regulations*, SOR/96-332 (Regulations) to be entitled to employment insurance benefits during the summer non-teaching period.

[2] The facts are not in dispute. The applicant's initial contract ended on June 29, 2012. The same day, the applicant signed a new contract for the following school year.

[3] The applicant argues that the Appeal Division erred by rejecting her claim to the effect that the loss of her accumulated sick leave, following the enactment of Bill 115 by the Government of Ontario, constituted, in fact, a break in the continuity of her employment.

[4] This argument cannot succeed. The Appeal Division rendered a reasonable decision because it correctly directed itself in fact and in law as the loss of a leave bank is not relevant under subsection 33(2) of the Regulations in determining eligibility for employment insurance benefits, and because it did not rely on the application of Bill 115. The determining criterion endorsed by the case law of this Court is the break in the continuity of the employment relationship (see *Canada (Attorney General) v. Blanchet*, 2007 FCA 377, 373 N.R. 313; *Canada (Attorney General) v. Lafrenière*, 2013 FCA 175, 454 N.R. 183; *Dupuis v. Canada (Attorney General)* 2015 FCA 228, [2015] F.C.J. No. 1238 (QL)). In this case, there was most definitely no severance of the employment relationship.

[5] In conclusion, it is important to point out that whether the applicant is unionized or not has no bearing on the outcome of this application for judicial review.

[6] For these reasons, this application for judicial review will be dismissed, without costs.

“A.F. Scott”

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J.A.

Certified true translation  
Janine Anderson, Revisor

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:**

A-151-16

**(APPEAL FROM A DECISION OF THE APPEAL DIVISION OF THE SOCIAL  
SECURITY TRIBUNAL DATED APRIL 12, 2016, APPEAL NO.: AD-14-289)**

**STYLE OF CAUSE:**

CHRISTINE CÔTÉ v.  
DEPARTMENT OF  
EMPLOYMENT AND SOCIAL  
DEVELOPMENT CANADA

**PLACE OF HEARING:**

OTTAWA, ONTARIO

**DATE OF HEARING:**

FEBRUARY 8, 2017

**REASONS FOR JUDGMENT OF THE COURT BY:**

PELLETIER J.A.  
GAUTHIER J.A.  
SCOTT J.A.

**DELIVERED FROM THE BENCH BY:**

SCOTT J.A.

**APPEARANCES:**

Christine Côté

FOR THE APPLICANT  
(for herself)

Carole Vary

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

William F. Pentney  
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FOR THE RESPONDENT