

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250319

Docket: A-191-24

Citation: 2025 FCA 63

**CORAM: BOIVIN J.A.
GLEASON J.A.
BIRINGER J.A.**

BETWEEN:

HEATHER WONG

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Heard at Toronto, Ontario, on March 19, 2025.
Judgment delivered from the Bench at Toronto, Ontario, on March 19, 2025.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on March 19, 2025).

BOIVIN J.A.

[1] The Appellant was denied Employment Insurance (EI) benefits by the Canada Employment Insurance Commission (the Commission) after failing to comply with her employer's COVID-19 vaccination policy. The Commission denied the Appellant's request on the basis that she had lost her employment owing to her own misconduct, pursuant to sections 30 to 33 of the *Employment Insurance Act*, S.C. 1996, c. 23 (the Act).

[2] The Appellant sought reconsideration of the Commission's decision, but the Commission maintained its position. The Appellant appealed the Commission's decision to the Social Security Tribunal (SST) General Division, which upheld the Commission's decision (GE-22-2781). The Appellant then requested leave to appeal the SST General Division decision, which was denied by the SST Appeal Division (AD-22-898).

[3] The Appellant subsequently brought an application for judicial review of the SST Appeal Division's decision to the Federal Court. The Federal Court, in its judgment rendered on May 3, 2024 (2024 FC 686), concluded that the SST Appeal Division's decision was reasonable, and thus dismissed the Appellant's application for judicial review. The Federal Court's judgment is the object of the present appeal.

[4] When reviewing the Federal Court's substantive review of an administrative decision, this Court must "step into the shoes" of the Federal Court, with its focus on the administrative decision (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 (*Agraira*) at para. 46). As such, we must consider whether the Federal Court selected the correct standard of review and properly applied it (*Agraira* at para. 47).

[5] In the present appeal, the Appellant essentially invites this Court to reweigh the arguments that were first put before the SST General Division, which is not its role on appeal from an application for judicial review. Moreover, the Appellant relies partly on the SST General Division decision, *AL v. Canada Employment Insurance Commission*, 2022 SST 1428, which was overturned by the SST Appeal Division in its decision *Canada Employment Insurance*

Commission v. AL, 2023 SST 1032. This Court recently upheld the SST Appeal Division decision (*Lance v. Canada (Attorney General)*, 2025 FCA 41), meaning the SST General Division decision relied on by the Appellant, can no longer be relied upon. Moreover, although the appellant disagrees with the interpretation of “misconduct”, the meaning of misconduct for the purposes of the Act is settled by the jurisprudence of this Court and we are bound by it: see for example, *Zagol v. Canada (Attorney General)*, 2025 FCA 40; *Lance v. Canada (Attorney General)*, 2025 FCA 41; *Besley v. Canada (Attorney General)*, 2025 FCA 47; *Cecchetto v. Canada (Attorney General)*, 2024 FCA 102, leave to appeal to SCC refused, 41441 (13 February 2025); *Khodykin v. Canada (Attorney General)*, 2024 FCA 96; *Palozzi v. Canada (Attorney General)*, 2024 FCA 81; *Kuk v. Canada (Attorney General)*, 2024 FCA 74; *Zhelkov v. Canada (Attorney General)*, 2023 FCA 240; *Francis v. Canada (Attorney General)*, 2023 FCA 217, leave to appeal to SCC refused, 41064 (16 May 2024). Consequently, it was open for the SST Appeal Division to conclude as it did.

[6] We have carefully considered the Appellant’s submissions. However, we are all of the view that the Federal Court selected the correct standard of review, reasonableness, properly applied it and thus, did not err in concluding that the SST Appeal Division decision was reasonable. We are also of the view, like the Federal Court, that the reasons provided by the SST Appeal Division were adequate (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65). The Appeal will thus be dismissed. As the respondent does not request costs, none will be awarded.

"Richard Boivin"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-191-24

STYLE OF CAUSE: HEATHER WONG v. THE
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: TORONTO, ONTARIO

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REASONS FOR JUDGMENT OF THE COURT BY: BOIVIN J.A.
GLEASON J.A.
BIRINGER J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

APPEARANCES:

Heather Wong ON HER OWN BEHALF

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