Federal Court Cour fédérale

Date: 20250514

Docket: T-967-20

Citation: 2025 FC 879

Ottawa, Ontario, May 14, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

ALEX MARTINEZ

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Alex Martinez, asks the Court to review the decision of the Social Security Tribunal (SST) Appeal Division dated July 30, 2020. The Appeal Division refused his request to appeal the decision of the SST General Division. The General Division found that he did not qualify for employment insurance benefits because he had zero hours of insurable

employment earnings in the qualifying period. The Appeal Division found his appeal had no reasonable chance of success.

[2] Mr. Martinez acknowledges he had no insurable earnings. However, in his Notice of Application dated August 17, 2020, he argues that the SST did not exercise its discretion properly "to proceed by way of 'analogy,' to form a decision that supports the exceedingly rare and unusual circumstances of this case." He requests the following relief at paragraph 9 of his Application:

> Enrollment into Employment Insurance Benefits; or, another suitable program and Costs and damages of $8,000,000 million dollars; and any other relief as the Court deems just.

[3] The issue in this application is straight forward, however, Mr. Martinez's various procedural actions and involvement in unrelated matters have caused unnecessary delays and complications. The Court had to manage the case actively and issue several orders and directions.

[4] The day before the hearing, on May 7, 2025, Mr. Martinez sent a letter to the Court stating, "The hearing must be cancelled due to the ongoing City of Winnipeg Police Service investigation and fraud discovered in the Federal Court of Canada…". The letter attached various documents that were described as a Motion Record and a Motion for Reconsideration. These documents did not meet the requirements in *Rules* 359, 363 and 364 of the *Federal Court Rules*, SOR/98-106, so I directed the Registry not to accept them for filing and directed that the hearing would proceed as scheduled.

[5] The hearing of Mr. Martinez's application proceeded, as scheduled, by videoconference on Thursday, May 8, 2025. Mr. Martinez did not appear for the hearing. Counsel for the Respondent made submissions. The Court will rely upon Mr. Martinez's written submissions.

I. Preliminary matter

[6] As a preliminary matter, the Respondent argues that the SST is not a proper party pursuant to *Rule* 303(1)(a). They submit that the Attorney General of Canada should be named as the Respondent.

[7] I agree with the Respondent and would note that government departments are not legal entities and therefore should not be named as parties (*Hideq v Canada (Attorney General)*, 2017 FC 439 at para 12) Accordingly, the style of cause shall be amended herewith to name the Attorney General of Canada as the Respondent.

[8] I will now turn to consider the merits of this application.

II. Background

[9] On March 27, 2020, the Canada Employment Insurance Commission (Commission) denied Mr. Martinez's application for regular employment insurance benefits because he had zero hours of insurable employment between February 2019 and February 2020. Mr. Martinez tried to rely on a Record of Employment from a job he held in 2009-2010, which did not qualify.

[10] On May 15, 2020, the Commission reaffirmed its decision following Mr. Martinez's request for reconsideration.

[11] On July 3, 2020, the SST General Division agreed with the Commission's findings, stating in part:

> [9] The Commission says the Claimant's qualifying period was the usual 52 weeks, and went from February 24, 2019, to February 22, 2020. The Claimant does not dispute this and there is no evidence that causes me to doubt it. So, I accept as fact that the Claimant's qualifying period is from February 24, 2019, to February 22, 2020.
>
> […]
>
> [18] The Commission decided that the Claimant has no hours during his qualifying period. The Claimant does not dispute this. He testified that he did not work during his qualifying period. There is no evidence that makes me doubt this. Accordingly, I accept it as fact that the Claimant has no hours during his qualifying period.
>
> [19] Since he would need at least 665 hours, but has none, he does not qualify for benefits.
>
> **I cannot consider mitigating circumstances or refer him to other programs**.
>
> [20] The Claimant argues that I have discretionary power to consider why he did not work enough hours. He says he has not been able to work because of criminal negligence and prosecution by police and Federal and Provincial Governments. He says he has been severely prejudiced by circumstances that required him to leave his job through no fault of his own. The Claimant says I should consider these mitigating circumstances when deciding whether he qualifies for benefits.
>
> [21] Unfortunately, I have no discretionary power when it comes to deciding if the Claimant qualifies for benefits. Employment insurance is an insurance plan and, like other insurance plans, claimants have to meet terms to be paid benefits. In this case, the Claimant does not meet the requirements, so he does not qualify

> for benefits. While the Claimant's situation may be sympathetic, I cannot rewrite the law. [Footnotes omitted.]

[12] Mr. Martinez sought leave to appeal the General Division's decision to the Appeal Division of the SST. On July 30, 2020, the Appeal Division denied Mr. Martinez his leave to appeal. The Appeal Division found in part as follows:

> [13] As noted by the General Division, the Claimant acknowledged that he did not work in the 52 weeks just before he applied for benefits. Therefore, he had zero hours of insurable employment in his qualifying period. The General Division was correct at law when it said that the Claimant did not have the required number of hours to qualify, regardless of whether he lived in the Toronto region or the Montreal region.
>
> [14] The Claimant argued that the General Division should have considered the mitigating circumstances and that his circumstances were exceptional. His circumstances may well be exceptional, but the law does not allow for exceptional circumstances in this matter. A claimant cannot qualify without the required number of hours in his or her qualification period, no matter what his circumstances.
>
> [15] The law allows that the *qualifying period* may be extended in specified circumstances, but there was no evidence that those circumstances applied to the claimant, or that the claimant would have accumulated sufficient hours to qualify even if his qualifying period had been extended.
>
> [16] The Claimant argued that the General Division could have "proceeded by analogy" if it did not have the discretion to allow his claim otherwise. If the Claimant is referring to the Tribunal's ability to proceed by analogy under section 2 of the *Social Security Tribunal Regulations* (SST Regulations), he has misunderstood how section 2 applies. Section 2 of the SST Regulations describes how the General Division should conduct itself when something unusual occurs in an appeal that is related to the process of hearing the appeal. It does not refer to how the General Division weighs the evidence or applies the law. Even if the General Division had to proceed by analogy to the SST Regulations in some respect, it does not have the authority to make a decision that is inconsistent with the EI Act and EI Regulations.

> [17] The General Division is required to apply the law and it applied the law. It made no error.
>
> [18] The Claimant has no reasonable chance of success in an appeal. [Footnotes omitted.]

III. Issues and standard of review

[13] The only issue is if the Appeal Division decision is reasonable. A reasonable decision is "justified in relation to the relevant factual and legal constraints that bear on the decision" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 12, 86 and 99).

IV. Analysis

[14] In his written submissions, Mr. Martinez argues that both the General and Appeal Divisions made errors in jurisdiction and did not exercise their discretion properly. He claims that the SST's decisions were made in haste and did not consider the merits of his case. Mr. Martinez asserts that he was prevented from working due to an injustice and suppression by individuals and organizations associated with the SST and the Commission.

[15] There are no reviewable errors in either the General Division or the Appeal Division decisions. The only issue was that Mr. Martinez did not have any insurable hours of employment in order to qualify for benefits for the relevant period. Mr. Martinez does not dispute this fact.

[16] The Appeal Division applied the correct test for leave to appeal. Mr. Martinez had to show that his appeal has a reasonable chance of success based on one of the three possible grounds: (a) a breach of natural justice or jurisdictional error; (b) a legal error; or (c) an erroneous factual finding made perversely and capriciously or without regard for the material before it (*Department of Employment and Social Development Act*, SC 2005, c 34, subsection 58(1)).

Grounds of appeal — Employment Insurance Section 58 (1) The only grounds of appeal of a decision made by the Employment Insurance Section are that the Section (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction; (b) erred in law in making its decision, whether or not the error appears on the face of the record; or (c) 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.	Moyens d'appel — section de l'assurance-emploi 58 (1) Les seuls moyens d'appel d'une décision rendue par la section de l'assurance-emploi sont les suivants : a) la section n'a pas observé un principe de justice naturelle ou a autrement excédé ou refusé d'exercer sa compétence; b) elle a rendu une décision entachée d'une erreur de droit, que l'erreur ressorte ou non à la lecture du dossier; c) elle a fondé sa décision sur une conclusion de fait erronée, tirée de façon abusive ou arbitraire ou sans tenir compte des éléments portés à sa connaissance.

[17] The Appeal Division reasonably found that Mr. Martinez's claim had no chance of success on appeal. Mr. Martinez acknowledged he did not work in the 52 weeks before he applied for benefits and had zero hours of insurable employment. The General Division correctly

applied section 7 of the *Employment Insurance Act,* SC 1996, c 23, which sets out the required hours of work to qualify for benefits.

[18] The Appeal Division's decision is reasonable. It is supported by the applicable legislation, justified in relation to the facts, and intelligibly explained. In other words, the decision-making process and outcome are coherent and aligned with the relevant legal and factual constraints.

[19] Mr. Martinez was seeking benefits that neither the SST nor this Court has the authority to grant. His claim for "enrollment" for employment insurance benefits and $8 million dollars in damages are without merit.

V. Conclusion

[20] This application for judicial review is dismissed. The Attorney General is not seeking costs, so no costs are awarded.

JUDGMENT IN T-967-20

THIS COURT'S JUDGMENT is that:

1. The style of cause shall be amended, with immediate effect, to name the Attorney General of Canada as the Respondent.

2. This judicial review is dismissed.

3. No costs are awarded.

"Ann Marie McDonald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-967-20
STYLE OF CAUSE:	MARTINEZ V ATTORNEY GENERAL OF CANADA
MOTION HELD BY VIDEOCONFERENCE AT:	OTTAWA, ONTARIO
DATE OF HEARING:	MAY 8, 2025
JUDGMENT AND REASONS:	MCDONALD J.
DATED:	MAY 14, 2025

APPEARANCES:

N/A	(ON HIS OWN BEHALF)
Sandra Doucette	FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A	FOR THE APPLICANT
Attorney General of Canada Department of Justice Canada Ontario Regional Office National Litigation Sector Toronto, Ontario	FOR THE RESPONDENT