

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251216

Docket: A-201-24

Citation: 2025 FCA 229

**CORAM: DE MONTIGNY C.J.
LASKIN J.A.
PAMEL J.A.**

BETWEEN:

KOLA ADEGOKE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Edmonton, Alberta, on December 2, 2025.

Judgment delivered at Ottawa, Ontario, on December 16, 2025.

REASONS FOR JUDGMENT BY:

LASKIN J.A.

CONCURRED IN BY:

**DE MONTIGNY C.J.
PAMEL J.A.**

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REASONS FOR JUDGMENT

LASKIN J.A.

[1] The applicant, Kola Adegoke, seeks judicial review of a decision of the Appeal Division of the Social Security Tribunal of Canada. In its decision, the Appeal Division dismissed Mr. Adegoke's appeal from a decision of the Tribunal's General Division in which it found that he had left his job voluntarily without just cause and was therefore not entitled to employment insurance benefits. The Appeal Division also rejected Mr. Adegoke's submission that the General Division had failed to give him a fair hearing.

[2] By subsection 30(1) of the *Employment Insurance Act*, S.C. 1996, c. 23, “[a] claimant is disqualified from receiving any benefits if the claimant [...] voluntarily left any employment without just cause [...]” By paragraph 29(c) of the Act, “just cause for voluntarily leaving an employment [...] exists if the claimant had no reasonable alternative to leaving [...], having regard to all the circumstances [...]” The non-exhaustive list of circumstances includes discrimination on a prohibited ground; working conditions that endanger health and safety; significant modification in the terms and conditions of wages; significant changes in work duties; antagonism with a supervisor; and undue pressure by the employer to leave the employment.

[3] Mr. Adegoke worked for Canada Post as a relief mail carrier. His duties involved sorting mail (20%) and making deliveries by vehicle (80%). In April 2023, as Mr. Adegoke was completing a five-month period of authorized absence from work on medical leave and then vacation leave, his family doctor diagnosed a stress-related disorder and an eye disorder, for which he had seen a retina consultant. His doctor recommended a phased return to office work commencing May 1, 2023, with no deliveries by vehicle because they caused him anxiety. Mr. Adegoke returned to work on May 1, 2023, but found that preparing items for delivery bothered his eyes and returned home.

[4] On May 8, 2023, Canada Post offered Mr. Adegoke an initial period of accommodation from May 15 to 26, 2023. He failed to report to work on May 15. He explained that he wanted to get further advice from his doctor first, and that he had an appointment scheduled for May 26, 2023. However, when asked in the hearing before the General Division why he had stayed home,

he agreed that the reason was that he had already decided he did not want to go back to his employment.

[5] Canada Post wrote to Mr. Adegoke on May 15, May 25, June 12, and June 22, 2023 extending the date for him to either return to work or provide a satisfactory explanation for his absence. He did neither. He was sent a termination letter on July 6, 2023. He had already applied for EI benefits, on July 2.

[6] As noted above, the General Division dismissed Mr. Adegoke's appeal, finding that he had voluntarily left his employment on May 15, 2025, and that he had failed to prove that he had just cause. It considered in turn each of the six circumstances that Mr. Adegoke put forward as showing that he had just cause, finding that (1) given the offer of accommodation, there was no discrimination within the meaning of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6; (2) there was insufficient evidence to prove that the offered accommodation would endanger health or safety; (3) the evidence did not show a significant modification of wages or work duties; (4) he had not proven antagonism from a supervisor; (5) the evidence did not show undue pressure to resign; and (6) the employer's communications did not prove existence of a toxic work environment. The General Division went on to find that Mr. Adegoke had reasonable alternatives to quitting: he could have responded to the many opportunities Canada Post provided either to return to work on the basis of the accommodation offered, which followed the recommendations of his doctor, or explained the reason for his absence.

[7] The Appeal Division dismissed Mr. Adegoke’s appeal. It held that the General Division had erred in law by considering evidence of events that occurred after Mr. Adegoke had left his employment on May 15, 2023, when the relevant question was whether he had a reasonable alternative to leaving as of that date. However, the parties agreed that if the Appeal Division found an error of law, it should give the decision the General Division should have given. The Appeal Division adopted the finding of the General Division that Mr. Adegoke voluntarily left his employment on May 15, 2023, and its further findings as to the circumstances that Mr. Adegoke put forward as justifying his decision not to go back. The Appeal Division found that Mr. Adegoke had at least one reasonable alternative to quitting, which he did not pursue: he had a responsibility to engage with his employer to see if there were accommodations available to address his needs. Accordingly, he did not have just cause to quit. He could have worked under the accommodation offered while he looked for a new job.

[8] In his appeal, Mr. Adegoke asserts that the Appeal Division committed multiple categories of error, the principal among them being failing to find a Charter breach and grant Charter remedies, denial of procedural fairness, and failing to adequately weigh the medical evidence, among other errors of law.

[9] Subject to limited exceptions, none of which apply here, the standard of review that this Court is to apply on judicial review of the substance of an Appeal Division decision is reasonableness: *Greening v. Canada (Attorney General)*, 2025 FCA 95 at paras. 4-7; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 17. “[A] reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is

justified in relation to the facts and law that constrain the decision maker”: *Vavilov* at para. 85. Matters of procedural fairness, such as bias, are to be reviewed on a standard equivalent to correctness—whether a fair and just process was followed having regard to all of the circumstances: *Berger v. Canada (Attorney General)*, 2022 FCA 4 at paras. 7, 28; *Masjoody v. Canada (Attorney General)*, 2025 FCA 200 at para. 3; *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69 at para. 54.

[10] Despite making arguments based on sections 7 and 15 of the Charter and claiming Charter remedies, Mr. Adegoke did not serve a notice of constitutional question as required by section 57 of the *Federal Courts Act*, R.S.C. 1985, c. F-7. He was therefore advised at the outset of the hearing that the Court would not entertain his Charter arguments.

[11] Mr. Adegoke’s submission that he was subjected to an unfair hearing has three main components: first, that the Tribunal member who wrote the Appeal Division decision was not the Tribunal member who conducted the hearing, second, that the hearing in the General Division was oppressive and unfair, and third, that the Tribunal was racially biased.

[12] The first component is puzzling. There is no evidence to support it. Mr. Adegoke may be confused as to who was who in the proceedings below; for example, he consistently and mistakenly refers to Pierre Lafontaine, who wrote the decision granting leave to appeal, as “she” and “her.”

[13] As for the General Division hearing, Mr. Adegoke complains that it was set down for one hour but took three, and that during the hearing, he “was subjected to adversarial questioning akin to a criminal investigation.” I have listened to the recording of the hearing. The Tribunal member informed Mr. Adegoke at the outset that the hearing was scheduled for an hour but that given the complexity and the number of documents it might take more time. It ended up taking approximately two hours and 15 minutes. Much of it was taken up by the Tribunal member asking questions to ensure that he had elicited all of the relevant evidence that Mr. Adegoke had to offer, and Mr. Adegoke’s responses. As the hearing concluded, the member asked Mr. Adegoke if there was anything that Mr. Adegoke wanted to tell him that he had not yet told him. Mr. Adegoke responded, “I think we’ve been able to cover everything that is possible to present my case.” There was no unfairness in the conduct of the hearing.

[14] Mr. Adegoke alleges that “as a Black individual, [...] racial bias influenced the [T]ribunal’s decision-making process. The tribunal was composed entirely of white members, raising concerns of racial bias, mainly when decisions appear to be made without considering the applicant’s unique circumstances.” He now also alleges a reasonable apprehension of bias.

[15] As this Court has recognized, “an allegation of bias, especially actual and not simply apprehended bias, against a tribunal is a serious allegation. [...] It cannot be done lightly. It cannot rest on mere suspicion, pure conjecture, insinuations or mere impressions of an applicant or his counsel”: *Arthur v. Canada (Attorney General)*, 2001 FCA 223. Mr. Adegoke does not come close to meeting the evidentiary threshold to establish apprehended bias, let alone actual bias.

[16] Mr. Adegoke submits that the Appeal Division failed to adequately weigh medical evidence supporting disability and workplace accommodation. But it is no part of this Court’s function on judicial review to reweigh the evidence considered by the decision-maker and substitute its own findings: *Petruska v. International Association of Machinists and Aerospace Workers*, 2025 FCA 203 at para. 8.

[17] Finally, Mr. Adegoke submits that the Tribunal erred in law by relying on evidence of events post-dating Mr. Adegoke’s cessation of work to determine that he lacked just cause to leave his job with Canada Post. But as noted above, the parties agreed that if the Appeal Division found an error of law in that respect, it had the authority to give the decision that the General Division should have given. That was precisely what occurred.

[18] For these reasons, I would dismiss this application. The respondent does not seek costs. I would accordingly make no award of costs.

“J.B. Laskin”

J.A.

“I agree.
Yves de Montigny C.J.”

“I agree.
Peter G. Pamel J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-201-24

STYLE OF CAUSE: KOLA ADEGOKE v. ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: DECEMBER 2, 2025

REASONS FOR JUDGMENT BY: LASKIN J.A.

CONCURRED IN BY: DE MONTIGNY C.J.
PAMEL J.A.

DATED: DECEMBER 16, 2025

APPEARANCES:

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(UNREPRESENTED)

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