Federal Court Cour fédérale

Date: 20260304

Docket: T-3184-24

Citation: 2026 FC 293

Ottawa, Ontario, March 4, 2026

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

TAGHREED AZAR

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Taghreed Azar seeks judicial review of a decision of the Appeal Division of the Social Security Tribunal [Appeal Division]. The Appeal Division concluded there was no arguable case that the General Division of the Social Security Tribunal [General Division] erred in finding that she was ineligible for employment insurance benefits.

[2] Ms. Azar was a supply teacher at a daycare centre. She began her employment in 2022. In November 2023, she took two days off work due to illness. Her employer refused to pay her for the two days. She complained to her employer on December 22, 2023, and again on April 8, 2024.

[3] Her employer said that if she were paid for the two days, then two sick days would be taken from her allotment of three days for 2024. The employer maintained that sick days should be noted on timecards, and Ms. Azar's request on December 22, 2023 was submitted too late to be included in the 2023 payroll cycle.

[4] In an e-mail message sent on April 11, 2024, the employer agreed to compensate Ms. Azar for only one of the two sick days, and told her: "I wish you can stop blaming others for your mistakes". Shortly after this exchange, Ms. Azar received her work schedule for the week of April 15, 2024. She was assigned work for only two days that week, instead of her usual five-day schedule.

[5] Ms. Azar believes that her reduced schedule was retaliatory. On Monday, April 15, 2024, she told her employer she would miss work due to illness. She was offered additional shifts that week but declined them.

[6] On April 18, 2024, Ms. Azar informed her employer that she was resigning, citing constructive dismissal. She submitted a complaint to the Ministry of Labour [Ministry]. She then applied for employment insurance benefits. In June 2024, following an investigation by the Ministry, Ms. Azar was paid for the second sick day she took in November 2023.

[7] Under s 30(1) of the *Employment Insurance Act*, SC 1996, C 23 [EI Act], a claimant is disqualified from receiving benefits if she voluntarily left her employment without just cause. Just cause exists if the claimant had no reasonable alternative to leaving. The EI Act lists relevant factors to consider in determining if just cause exists (EI Act, s 29(c)).

[8] The Employment Insurance Commission [Commission] denied Ms. Azar's application for benefits, concluding that she voluntarily left her employment without just cause. Upon reconsideration, the Commission maintained its initial decision. Ms. Azar appealed to the General Division.

[9] The General Division dismissed the appeal, finding Ms. Azar's evidence to be unreliable. Ms. Azar said she had been employed on a full-time basis. The General Division considered the evidence of her employer and reviewed her pay stubs and contract of employment before concluding that she was an "on-call" worker without guaranteed hours. It also accepted the evidence of her employer that, by mid-April, permanent staff had returned from vacation, which explained the reduction in Ms. Azar's hours.

[10] The General Division noted that Ms. Azar's employer acknowledged that its language in the April 11, 2024 e-mail message was inappropriate, and accepted that she may have been uncomfortable when the owners of the daycare centre spoke with other teachers in a language she did not understand. Nevertheless, the General Division found this did not amount to bullying, harassment, or intimidation. It therefore concluded that Ms. Azar left her job voluntarily, without just cause.

[11] The Appeal Division refused leave to appeal. It held there was no arguable case that the General Division had made an important error of fact. The Appeal Division found that the General Division had properly considered Ms. Azar's testimony, employment contract, income, and communications with her employer before concluding that she did not have just cause for leaving, and she was neither bullied nor harassed.

[12] The Appeal Division's decision is subject to review by this Court against the standard of reasonableness (*Sherwood v Canada (Attorney General)*, 2019 FCA 166 at para 7; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[13] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[14] Section 58(1) of the *Department of Employment and Social Development Act*, SC 2005, c 34 [DESDA] prescribes the grounds for an appeal to the Appeal Division. One of those grounds is that the General Division "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" (DESDA, s 58(1)(c)). The General Division must have made findings of fact that squarely contradict or are

unsupported by the evidence, including by overlooking or misconstruing key evidence (*Garvey v Canada (Attorney General)*, 2018 FCA 118 at para 6).

[15] The Appeal Division may grant leave to appeal only when it is satisfied that the appeal has a "reasonable chance of success" (DESDA, s 58(2)). This is a low threshold that has been interpreted to mean that an appellant must demonstrate an "arguable case" (*Ingram v Canada (Attorney General)*, 2017 FC 259 at para 16).

[16] Ms. Azar says that the Appeal Division made several errors in denying leave to appeal. In her submissions at all stages of the proceedings, including this application, she emphasized the findings by the Ministry regarding the absence of any harassment policy or health and safety representative at her workplace. The General Division acknowledged her complaints to the Ministry in its decision (at paragraph 49), but noted only that these led to her receiving payment for the second of the two days' sick leave and a concession from the employer that its comments to her had been inappropriate.

[17] In her application for leave to appeal to the Appeal Division, Ms. Azar began with the observation that "[t]he Ministry of Labor [*sic*] had requested a Human Resource investigation in my case, my former employer did not have a Human Resource manager nor a Health and Safety Committee and therefore, they were asked to hire an external HR consultant to conduct the investigation". She also noted that she received the Ministry's report only after her claim for EI benefits had been denied. She appended a copy of the report to her application for leave to appeal.

[18] I am unable to say whether this ground might constitute “an arguable case” on appeal. Unfortunately, the Appeal Division did not address it. Indeed, the Appeal Division’s decision refusing leave to appeal says nothing about Ms. Azar’s complaints to the Ministry, or its findings that her former employer had neither a Human Resources manager nor a Health and Safety Committee. The question arises whether the absence of these support mechanisms may have given Ms. Azar just cause to resign her position.

[19] The failure of the Appeal Division to grapple with a key argument advanced by Ms. Azar renders its decision unreasonable (*Vavilov* at para 128). The application for judicial review is therefore allowed.

[20] Ms. Azar was not represented by counsel in this application. She has not requested costs, and accordingly no costs are awarded.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, and the matter is remitted to a differently-constituted panel of the Appeal Division of the Social Security Tribunal for redetermination.

"Simon Fothergill"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-3184-24
STYLE OF CAUSE:	TAGHREED AZAR v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	BY VIDEOCONFERENCE
DATE OF HEARING:	FEBRUARY 17, 2026
JUDGMENT AND REASONS:	FOTHERGILL J.
DATED:	MARCH 4, 2026

APPEARANCES:

Taghreed Azar (on her own behalf)	FOR THE APPLICANT
Nathan Beck	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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