

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20231212**

**Docket: A-125-23**

**Citation: 2023 FCA 240**

**CORAM: BOIVIN J.A.  
LASKIN J.A.  
ROUSSEL J.A.**

**BETWEEN:**

**NIKOLAY ZHELKOV**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Toronto, Ontario, on December 12, 2023.  
Judgment delivered from the Bench at Toronto, Ontario, on December 12, 2023.

**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 December 12, 2023).**

**BOIVIN J.A.**

[1] The applicant was denied Employment Insurance Benefits by the Canada Employment Insurance Commission after failing to comply with his employer's COVID-19 vaccination policy. The Commission found that the applicant had lost his employment due to his own misconduct. The applicant requested a reconsideration but the Commission maintained its decision.

[2] The applicant appealed the Commission's decision to the General Division of the Social Security Tribunal of Canada. The General Division dismissed the appeal on the basis that the applicant had lost his job due to misconduct because he refused to comply with his employer's vaccination policy.

[3] The Appeal Division of the Social Security Tribunal of Canada granted leave to appeal the General Division's decision. The Appeal Division found that the General Division misstated the applicant's evidence and failed to address a number of the applicant's arguments. In rendering the decision that the General Division should have rendered, the Appeal Division found that the General Division did not err in the result. The Appeal Division thus dismissed the appeal.

[4] The standard of review in this case is reasonableness (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65).

[5] We carefully considered the applicant's submissions. However, we are all of the view that the Appeal Division's decision bears the hallmarks of reasonableness: it is justified, transparent and intelligible. More particularly, the Appeal Division referenced the relevant jurisprudence and properly declined to address certain arguments that fell outside of its jurisdiction (*Francis v. Canada (Attorney General)*, 2023 FCA 217; *Cecchetto v. Canada (Attorney General)*, 2023 FC 102). The intervention of our Court is not warranted.

[6] The application for judicial review will therefore be dismissed without costs.

"Richard Boivin"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-125-23

**STYLE OF CAUSE:** NIKOLAY ZHELKOV v.  
ATTORNEY GENERAL OF  
CANADA

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** DECEMBER 12, 2023

**REASONS FOR JUDGMENT OF THE COURT  
BY:** BOIVIN J.A.  
LASKIN J.A.  
ROUSSEL J.A.

**DELIVERED FROM THE BENCH BY:** BOIVIN J.A.

**APPEARANCES:**

Nikolay Zhelkov FOR THE APPLICANT  
(On his own behalf)

Dani Grandmaître FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Shalene Curtis-Micallef FOR THE RESPONDENT  
Deputy Attorney General of Canada