

e-document A-125-23 ID 1

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D É P O S É
April 02, 2023 02 avril 2023		
Sherri Ally		
TOR	1	

**FORM 301 Rule 301**  
**Notice of Application**

FEDERAL COURT

Between: Nikolay Zhelkov (Applicant)

And

Social Security Tribunal of Canada Appeal Division

**Notice of Application**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto ON.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Date)

Issued by: (Registry Officer)

Address of local office:

TO: Social Security Tribunal of Canada  
PO Box 9812 Station T  
Ottawa, ON K1G 6S3

# Application

*(Where the application is an application for judicial review)*

This is an application for judicial review in respect of

*(Decision made by the Social Security Tribunal of Canada - Appeal Division)*

*(Decision dated 22 March 2023, by Social Security Tribunal of Canada Appeal Division in respect of my claim for EI (Employment Insurance) Benefits)*

*(Decision was communicated to the applicant Nikolay Zhelkov 22 March 2023)*

The applicant makes application for: *(My claim for EI benefits should have been approved)*

The grounds for the application are: (My employment was terminated on a WITHOUT CAUSE basis as stated by my former employer in my termination letter. I applied for EI benefits and was subsequently denied by the CEIC (Canada Employment Insurance Commission) on the basis of MISCONDUCT regarding a COVID19 vaccination policy. I appealed the decision with the Social security Tribunal General division and was denied. I then appealed the decision made by the general division on the grounds that they did not consider the legality of my former employers policy and that I would not be required to comply if the policy in question did not itself abide by the law. I was granted a hearing with the Appeal division and was once again subsequently denied because “The arguments simply fell outside the scope of the General division and Appeal Division’s legal mandate or Jurisdiction. I presented a document outlining all of the ways the policy in question did not abide by the law and therefor what I was not obligated to comply with it, and I also gave on simple example that would highlight the mistake and the absurdity of outcome that would result if the legality of an employers actions can be completely disregarded when deciding whether an action by an employee is considered misconduct. Before stating the example I want to make note of what definition I was given by the CEIC regarding misconduct; “any conduct that is wilful, conscious, deliberate, regardless of intent, and that the employee knew that the result of their conduct could result in termination”. The example that I gave was the following: if an employer asks and employee to commit a crime or is asked to do something inappropriate such as a sexual act – and the employee wilfully refuses the request and is told if they do not comply they will be terminated – and continues to not comply with said request and is subsequently terminated – is it the commissions and tribunals position that the employee was guilty of misconduct for wilfully disobeying the request of an employer with the knowledge that they would be terminated, and would then be refused benefits? During the last hearing with the Appeal division, I asked this question to both the mediator Janet Lew (appeal division representative) and Julie Villeneuve (CEIC representative) and Julie stated that if an employee was asked to perform sexual acts with the threat of termination and was fired – she would NOT be denied benefits or be accused of misconduct. She agreed with essence of my argument that an

employer's actions are required to abide by the law in order to be able to determine misconduct. However, her legal arguments that was presented to the Appeal division contradicted her verbal statements. She presented a legal argument that an employers actions are not relevant when deciding misconduct. I am hoping that the Federal Court has the authority and a scope beyond that of the Social Security Tribunal to see that my arguments were valid and could not be refuted and to please reverse the deicions of my denial of my EI benefits and honor my request for resolution stated in my appeal to the social security tribunal: That I be paid for the duration that I was unemployed and that the CEIC and Social Security Tribunal make a formal apology for my denial of benefits and for being accused of misconduct which I did not commit, thank you.)

This application will be supported by the following material:

- Employment contract with former employer
- Unpaid leave letter & covid vaccine policy
- All letters and documentation with the CEIC and Social security tribunal which includes applications for appeal, decision letters from both CEIC and the tribunal, supporting legal documents, and arguments made when applying to the appeal division.
- All documents provided that have the prefix REF are reference documents, everything else should have a number as a prefix which should correspond to the date that it was received. In other words if you look through the files from 1-11 this should be show an accurate timeline of events.

March 31<sup>st</sup>, 2023

A handwritten signature in black ink that reads "Nicky Z". The letters are cursive and fluid, with a large 'Z' at the end.

Nikolay Zhelkov

6 Teaberry Terrace  
Brampton On,  
L6Y 0Y1  
Tel: 647-261-3054  
[Nickyzhelkov@yahoo.ca](mailto:Nickyzhelkov@yahoo.ca)  
(Applicant)

[SOR/2021-151, s. 22](#)