



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *K. R. v. Canada Employment Insurance Commission*, 2018 SST 335

Tribunal File Number: GE-17-3558

BETWEEN:

**K. R.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

---

**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

---

DECISION BY: Teresa Jaenen

TELECONFERENCE HEARD ON: April 5, 2018

DATE OF DECISION: April 11, 2018

## REASONS AND DECISION

### DECISION

[1] The appeal is dismissed. The Tribunal finds the Appellant has not proven she had just cause for voluntarily leaving her employment and will be disqualified from receiving benefits.

### OVERVIEW

[2] The Appellant left her employment to follow her partner to a new residence in hopes of securing long-term employment. She stated they shared household expenses and it would not have been feasible for them to pay rent in two locations so she could not have followed at a later date. The Appellant and her partner were not married and they had been living together for less than 12 months. The Canada Employment Insurance Commission (Respondent) denied the Appellant benefits as she failed to prove she had just cause to leave her employment because she had an obligation to accompany a spouse or common-law partner to another residence.

### ISSUES

[3] Issue 1: Did the Appellant voluntarily leave her employment?

[4] Issue 2: Did the Appellant have just cause to voluntarily leave her employment because she has an obligation to accompany a spouse or common-law partner to another residence?

### ANALYSIS

[5] The relevant legislative provisions are reproduced in the Annex to this decision.

[6] Subsection 30(1) of the *Employment Insurance Act* (the Act) provides that a claimant is disqualified from receiving any employment insurance benefits if they voluntarily left any employment without just cause.

[7] **Did the Appellant voluntarily leave her employment?**

[8] Yes, the Tribunal finds the Appellant voluntarily left her job. She conceded that she quit her job in order to move to Alberta with her partner.

[9] The onus is on the claimant who voluntarily left employment to prove that she had just cause for doing so because there was no other reasonable alternative for leaving the employment at that time. The test to be applied having regard to all the circumstances is whether, on the balance of probabilities, the claimant had no reasonable alternative to leaving her employment (*Rena-Astronomo* (A-141-97)).

[10] **Did the Appellant have just cause to voluntarily leave her employment because she has an obligation to accompany a spouse or common-law partner to another residence?**

[11] Subsection 29(c) of the Act provides that an employee will have just cause by leaving a job if this is no reasonable alternative to leaving taking into account a list of enumerated circumstances, including, at paragraph 29(c)(ii) obligation to accompany a spouse, common-law partner or dependent child to another residence. The test to be applied, having regard to all the circumstances, is whether the Appellant had a reasonable alternative to leaving her employment when she did.

[12] For the exception in section 29(c)(ii) to apply, it is essential that a spousal relationship exist. The Appellant must have cohabited with her partner for a period of at least one year for her partner to be considered a common-law partner under subsection 2(1) of the Act. A relationship of 10-11 months does not allow for a finding that the relationship had duration of "at least one year" (*Canada (AG) v. Thompson*, 2006, FCA 26).

[13] The Tribunal finds the Appellant is in a committed relationship with her partner, but not one of common-law. The Appellant concedes that she had not been living with her partner in a conjugal relationship for at least 12 months.

[14] The Tribunal finds there have been cases where benefits were paid due to exceptional circumstances, as it has been considered in cases where children were involved and relocation was necessary to keep the family intact; this is not the case in this appeal. The Appellant conceded that she and her partner have no children together and they have no imminent plans to marry.

[15] The Appellant argues that she shared expenses with her partner and did not want the expenses of paying rent in two locations. She also argues that sharing the cost of travel expenses

to the new residence only made sense. The Tribunal finds the sharing of expenses or travel costs do not present “exceptional circumstances.

[16] The Tribunal finds the Appellant made a personal choice to leave her employment when she did. Although a personal choice may constitute good cause, it is not just cause for leaving employment and causing others to bear the burden of the Appellant’s unemployment (*Canada (Attorney General v. White*, 2011 FCA 190; *Tanguay A-1458-84*).

[17] The Tribunal considered the Appellant’s circumstances and finds on the balance of probabilities that leaving to follow her partner was not her only reasonable alternative. The Tribunal finds the Appellant had reasonable alternatives available to her. The Appellant could have remained employed until the end of her contract. The Appellant could have secured employment in the new location prior to moving.

[18] The Appellant conceded that she could have remained employed until her contract ended in December. The Appellant stated that she had looked for what employment opportunities existed in the new area but conceded that she never made any serious attempts to find work because she didn’t know what area of the new city she would be living.

[19] Having regard to all the circumstances, the Tribunal finds a disqualification is imposed because the Appellant did not have just cause for voluntarily leaving her employment.

[20] The Tribunal sympathies with the Appellant’s situation. However, tempting as it may be in such cases (and this may well be one), adjudicators are permitted neither to re-write legislation nor to interpret it in a manner that is contrary to its plain meaning (*Canada (A.G.) v. Knee* 2011 FCA 301).

## **CONCLUSION**

[21] The appeal is dismissed.

Teresa Jaenen  
Member, General Division - Employment Insurance Section

## ANNEX

### THE LAW

#### Employment Insurance Act

**29** For the purposes of sections 30 to 33,

(a) *employment* refers to any employment of the claimant within their qualifying period or their benefit period;

(c) just cause for voluntarily leaving an employment or taking leave from an employment exists if the claimant had no reasonable alternative to leaving or taking leave, having regard to all the circumstances, including any of the following:

(i) sexual or other harassment,

(ii) obligation to accompany a spouse, common-law partner or dependent child to another residence,

(iii) discrimination on a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act*,

(iv) working conditions that constitute a danger to health or safety,

(v) obligation to care for a child or a member of the immediate family,

(vi) reasonable assurance of another employment in the immediate future,

(vii) significant modification of terms and conditions respecting wages or salary,

(viii) excessive overtime work or refusal to pay for overtime work,

(ix) significant changes in work duties,

(x) antagonism with a supervisor if the claimant is not primarily responsible for the antagonism,

(xi) practices of an employer that are contrary to law,

(xii) discrimination with regard to employment because of membership in an association, organization or union of workers,

(xiii) undue pressure by an employer on the claimant to leave their employment, and

(xiv) any other reasonable circumstances that are prescribed.

**30 (1)** A claimant is disqualified from receiving any benefits if the claimant lost any employment because of their misconduct or voluntarily left any employment without just cause, unless

(a) the claimant has, since losing or leaving the employment, been employed in insurable employment for the number of hours required by section 7 or 7.1 to qualify to receive benefits; or

(b) the claimant is disentitled under sections 31 to 33 in relation to the employment.

**(2)** The disqualification is for each week of the claimant's benefit period following the waiting period and, for greater certainty, the length of the disqualification is not affected by any subsequent loss of employment by the claimant during the benefit period.