



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *Angstrom Business Solutions v. Canada Employment Insurance Commission*, 2018 SST
327

Tribunal File Number: GE-17-2401

BETWEEN:

Angstrom Business Solutions

Appellant

and

Canada Employment Insurance Commission

Respondent

and

T. M.

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Teresa Jaenen

HEARD ON: March 7, 2018

DATE OF DECISION: April 5, 2018

REASONS AND DECISION

DECISION

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

OVERVIEW

[2] The Claimant filed a renewal for employment insurance benefits stating a shortage of work. The Canada Employment Insurance Commission (Respondent) denied the Appellant benefits because they determined he voluntarily left his employment without just cause. Following a request for reconsideration the Respondent changed its decision and removed the disqualification. The Appellant (employer) disagreed with the decision and filed an appeal, arguing the Claimant resigned from his position due to his refusal to follow their proven sales methods and processes and should be disqualified from receiving employment insurance benefits.

PRELIMINARY ISSUES

[3] The Appellant did not attend the hearing. Canada Post-delivery receipt shows that the Appellant's notice of hearing was successfully delivered on January 16, 2018. The Tribunal was satisfied the party received their notice of hearing and proceeded with the authority allowed under subsection 12(1) of the *Social Security Tribunal Regulations*.

ISSUES

[4] Issue 1: Did the Claimant voluntarily leave his employment?

[5] Issue 2: Did the Claimant have just cause to voluntarily leave his employment because the employer changed the terms and conditions of his employment?

ANALYSIS

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

[7] 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.

Issue 1: Did the Claimant voluntarily leave his employment?

[8] Yes, the Tribunal finds the Claimant voluntarily left his job.

[9] The onus of proof rest with the Respondent to show the leaving was voluntary (*White* 2011 FCA 190).

[10] The Tribunal finds the Respondent has proved the Claimant voluntarily left his job. The Appellant conceded he quit his job because his employer changed the terms and conditions of his employment when he was expected to travel three hours from his home if he wanted to continue working.

Issue 2: Did the Claimant have just cause to voluntarily leave his employment because the employer changed the terms and conditions of his employment?

[11] Yes, the Tribunal finds the Claimant has proven he had no reasonable alternative but to leave his job when his employer significantly changed the terms and conditions of his employment.

[12] The onus is on the claimant who voluntarily left employment to prove that he 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 his employment (*Rena-Astronomo* (A-141-97)).

[13] Subsection 29(c) of 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 (ix), “significant changes in work duties”.

[14] The Respondent found that the Claimant did have just cause for leaving his employment pursuant to paragraph 29(c)(ix), “significant changes in work duties”. However the employer is disputing this decision.

[15] The Respondent contacted the employer to provide information as to whether or not the Claimant would have been required to travel to X to do his job.

[16] The employer stated the Claimant should be disqualified from receiving benefits because he quit for personal reasons as he wanted to work in his own ways and conduct sales differently. He did not provide any notice and there was work available for him. The employer stated they did not have any information to provide regarding the Claimant no longer being given sales leads in X and he was now required to work in X.

[17] The Claimant stated that his employer’s allegations that he refused to follow their proven sales methods were not true, nor that he never requested additional assistance. He stated his sales manager verbally abused and berated him and he complained to the Director of Sales; however he was told that the sales manager brought in a lot of money and they were not going to do anything about him. The Claimant stated he tried to make it work but when he was told there were no more leads in X and if he wanted to stay with the company he would have to travel to X to work and he had no reasonable alternative but to quit. He stated because his employer would not give him anymore leads in X and travelling to X was three hours away, it was impossible for him to do. He also argues that this was a significant change in his employment agreement as he had been hired to work in the X area where he lived and with the leads provided by the employer.

[18] An employee is entitled to expect the employer to uphold the terms of an employment contract, and not to unilaterally introduce major changes to his duties. The Act does not require that a situation be urgent before the employment relationship ends, but the change must be

significant, and having regard to the circumstances, departure must represent the only reasonable alternative.

[19] Where the terms and conditions are significantly altered; a claimant will have just cause for leaving that position. The word “significant” in subsection (ix) has been interpreted as “something of import, something above the normal”. In considering whether the changes constitute just cause these changes must originate with the employer.

[20] The Tribunal finds that changes were made by the employer because the action of no longer providing the Claimant with sales leads in X, and requiring him to travel three hours away from his residence to continue working, constituted significant changes in work duties.

[21] The Tribunal finds the Claimant, on the balance of probabilities, had no other reasonable alternative but to quit his job when he did because his employer would not give him any more sales leads in X; and expected him to immediately change his work location to X, three hours away. Having regard to all the circumstances, the Tribunal finds that the Claimant had just cause for voluntarily leaving his employment.

CONCLUSION

[22] The appeal is dismissed.

Teresa Jaenen

Member, General Division - Employment Insurance Section

METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	T. M., Claimant

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.