



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *C. L. v Canada Employment Insurance Commission*, 2019 SST 221

Tribunal File Number: GE-18-3819

BETWEEN:

C. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Josée Langlois

HEARD ON: January 17, 2019

DATE OF DECISION: January 17, 2019

DECISION

[1] The appeal is allowed. The Tribunal finds that the Appellant had just cause for voluntarily leaving her employment.

OVERVIEW

[2] The Appellant worked at X for nearly a year while she lived in Sainte-Anne. She admits that she voluntarily left her employment on August 3, 2018, because she moved to Bathurst. The employer stated that the Appellant had left her employment to return to school. The Commission denied the Appellant's application because it found that she had reasonable alternatives to voluntarily leaving her employment. The Tribunal must determine whether the Appellant had just cause for voluntarily leaving her employment.

ISSUE

[3] Did the Appellant have no reasonable alternative to leaving her employment?

ANALYSIS

Voluntary Leaving

[4] The Appellant admitted that she had voluntarily left her employment at X on August 3, 2018. The Tribunal is of the view that the Commission met its burden of proof and finds that the Appellant voluntarily left her employment on August 3, 2018.

[5] Since the Commission has proven that the Appellant's leaving was voluntary, the Appellant must prove that she had just cause for voluntarily leaving her employment (*Green*, 2012 FCA 313; *White*, 2011 FCA 190; *Patel*, 2010 FCA 95).

Did the Appellant have no reasonable alternative to leaving her employment?

[6] A person who voluntarily leaves their employment must prove that there was no reasonable alternative but to leave (*Astronomo*, A-141-97; *Tanguay*, A-1458-84; *Peace*, 2004 FCA 56 (CanLII); *Landry*, A-1210-92).

[7] The Appellant stated that she left the employment she had when she lived in Sainte-Anne to move to Bathurst, more than 300 kilometres from her home. She explained that her training was starting on September 4, 2018.

[8] The Appellant stated that she had asked for a transfer to the Bathurst X, but she was not granted this request.

[9] She also explained that her forestry training was approved by Emploi-Québec, but the counsellor had not told her to leave her employment.

[10] The Appellant also stated that she left her employment a month before the start of her course because she was experiencing stress and her health was affected. She also wanted to move to Bathurst before the start of her course.

[11] The Commission states that the Appellant did not have just cause for voluntarily leaving her employment on August 3, 2018, because she failed to exhaust all reasonable alternatives available to her when she left her employment. The Commission submits that another alternative would have been to keep her employment or to secure other employment before leaving the employment she had.

[12] Except for study programs authorized by the Commission, leaving an employment to take training is a ground for disqualification from receiving benefits (*Gauthier*, A-552-03; *Canada (Attorney General) v Bédard*, 2004 FCA 21 (CanLII), *Canada (Attorney General) v Laughland*, 2003 FCA 129 (CanLII); *Canada (Attorney General) v Lessard*, 2002 FCA 469 (CanLII)).

[13] The balance of probabilities shows that an employment counsellor authorized the Appellant's training that started on September 4, 2018. The Appellant made sure to get authorization for her course that was taking place in Bathurst, more than 300 kilometres from where she lived.

[14] She asked to be transferred to the Bathurst X, but she was not granted this request because she had not worked for the employer for over a year.

[15] At the hearing, the Appellant's representative confirmed that the counsellor had authorized a forestry course that was given at Collège de Bathurst and that the Appellant had left her employment in August to move to the town of Bathurst to start her course.

[16] The Tribunal finds that the Appellant exhausted the alternatives available to her when she left her employment. Her course was authorized by the Commission, and it was taking place in Bathurst, more than 300 kilometres from her home. She asked her employer for a transfer, but it did not grant her request. The Appellant left her employment when her course was authorized.

[17] Although a person has an obligation, in most cases, to demonstrate efforts to seek alternative employment before taking a unilateral decision to quit a job, in this specific case, the Appellant's course had been authorized. However, even though she wanted to keep her student employment, she had to move more than 300 kilometres from her home to carry out the training, and a transfer was not possible.

[18] Having regard to all the circumstances, especially the fact that the Appellant's training was being offered more than 300 kilometres from her home, the Tribunal finds that she had just cause for voluntarily leaving her employment on August 3, 2018, because she had no reasonable alternative to leaving her employment at that time.

CONCLUSION

[19] The appeal is allowed.

Josée Langlois
Member, General Division – Employment Insurance Section

HEARD ON:	January 17, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCE:	J. L., Representative for the Appellant