



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *R. B. v Canada Employment Insurance Commission*, 2019 SST 889

Tribunal File Number: GE-18-3690

BETWEEN:

**R. B.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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

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DECISION BY: Eleni Palantzas

HEARD ON: January 21, 2019

DATE OF DECISION: February 28, 2019

## **DECISION**

[1] The appeal is dismissed. The Claimant did not have just cause for leaving his employment with X on May 15, 2018.

## **OVERVIEW**

[2] The Claimant applied for employment insurance regular benefits after leaving his employment with X. The Claimant submitted that the employer was obligated to provide him with coveralls and clean them as a mandatory part of his employment. The employer however, refused and lied about committing to provide him with coveralls, so he quit. The Canada Employment Insurance Commission (Commission) determined that the Claimant chose to leave his employment without just cause because he had reasonable alternatives. It submitted that the Claimant could have stayed employed using his own coveralls until he secured other employment. The Claimant requested that the Commission reconsider its decision arguing that the employer's refusal to provide coveralls is a violation of health and safety rules. The Commission however, maintained its initial decision. The Claimant appealed that decision to the Social Security Tribunal of Canada (Tribunal).

## **ISSUE**

Did the Claimant have reasonable alternatives to quitting his job at X?

## **ANALYSIS**

[3] When a claimant leaves or takes a leave of absence from their employment, they are not automatically entitled to benefits. A claimant who voluntarily leaves their employment is disqualified from receiving employment insurance benefits unless they can establish "just cause" for leaving (section 30 of the *Employment Insurance Act* (EI Act)).

[4] To establish just cause for voluntarily leaving, or taking a leave of absence, a claimant must show that, given the circumstances, they had no reasonable alternative for doing so (Patel A-274-09, Astronomo A-141-97, Tanguay A-1458-84).

[5] The initial onus is on the Commission to show that the Claimant voluntarily left his employment. It is undisputed that the Claimant chose to leave his employment with X on May 15, 2018. The parties disagree however, as to whether the Claimant had just cause for leaving that employment.

[6] Having established that the Claimant voluntarily left his employment, the onus of proof now shifts to the Claimant to show that he left his employment for just cause (White A-381-10, Patel A-274-09). In other words, he must show that, given the circumstances, he had no reasonable alternative to leaving.

**Issue: Did the Claimant have reasonable alternatives to quitting his job at X?**

[7] Yes. The Member finds that the Claimant had reasonable alternatives to leaving his employment and therefore did not have just cause for leaving that employment.

[8] Consideration was given to the circumstances referred to in subsection 29(c) of the EI Act and whether any existed at the time the Claimant left his employment. Subsection 29(c) provides a non-exhaustive list of circumstances to be considered when determining whether a claimant had just cause for leaving their employment (White A-381-10). Even if a claimant shows that one of the considerations in this section applies, they must still show that the circumstances were such that they had no reasonable alternative but to leave. In this case, even if the Claimant showed that the employer must supply coveralls to its employees for health and safety reasons, he must still show that he had no reasonable alternative to leaving (paragraph 29(c)(iv) of the EI Act).

[9] The Member must assess the circumstances as they exist at the time of separation (Lamonde A-566-04). The Claimant testified that he left his employment because the employer would not supply him with coveralls as they had initially agreed upon hire. In the 35 years that he has been a X, this is the first time an employer has refused to supply and wash coveralls. He noted that he cannot use his own coveralls indefinitely because he cannot wash them in a regular washing machine given the diesel oil on them. Although he could not provide evidence that the employer is obligated to supply them for health and safety reasons, he notes that he cannot work without them. During the 9 days that he was employed at this employer, he repeatedly brought

up this issue with the head mechanic who in turn, spoke to the employer. The employer refused to supply the coveralls. The Claimant submitted that staying until he found other employment was therefore not a reasonable option to him leaving when he did.

[10] The Member disagrees. The Claimant was provided the opportunity by the Commission to obtain evidence that the employer breached (a) their initial agreement and/or (b) health and safety laws. At the hearing, the Claimant confirmed that he could not provide that evidence. The Member finds therefore, that there was no evidence of a breach of contract or that the Claimant was at imminent risk so, he did not have to leave immediately and after only 9 days of employment. He could remain employed and consider reasonable options.

[11] The Member's findings are supported by case law. A claimant's dissatisfaction with one's work conditions, do not generally constitute just cause under the EI Act, unless they are so intolerable that the claimant had no other choice but to leave (CUB 74765).

[12] The Member understands that the Claimant is adamant it is the employer's responsibility to provide him with coveralls however, it is reasonable to expect that he continue to use his coveralls until he secured other employment. Although cleaning them requires special considerations, after 35 years of being in the industry, the Claimant could find how and/or where the coveralls could be safely cleaned. The Member finds that, given the circumstances at the time, the Claimant had the reasonable option of remaining employed using his own coveralls while he pursued other employment. If he continued to believe it was a health and safety issue, he could have remained employed or taken a leave until he contacted the Ministry of Labour. The Claimant also had the reasonable option of speaking directly with the employer and negotiating some kind of agreement rather than choosing to not show up any more.

[13] The Member finds that the Claimant did not meet the onus of showing that he had no reasonable alternative to choosing to leave his employment with X. He therefore does not have just cause for leaving that employment. He is disqualified from receiving benefits from May 15, 2018 onward.

## **CONCLUSION**

[14] The appeal is dismissed.

Eleni Palantzas

Member, General Division - Employment Insurance Section

HEARD ON:	January 21, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	R. B., Appellant