



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *J. J. v Canada Employment Insurance Commission*, 2019 SST 260

Tribunal File Number: GE-19-23

BETWEEN:

**J. J.**

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: Angela Ryan Bourgeois

HEARD ON: January 28, 2019

DATE OF DECISION: February 27, 2019

## DECISION

[1] The appeal is dismissed. The Appellant (Claimant) is disqualified from receiving benefits because a reasonable alternative was for her to stay employed, rather than leave her job to return to university.

## OVERVIEW

[2] The Claimant left her job in Fort McMurray, Alberta, at the end of August, and returned home to Nova Scotia where she resumed her university studies in September.

[3] The Canada Employment Insurance Commission (Commission) determined that the Claimant did not have just cause to voluntarily leave her job, and disqualified her from receiving benefits as of September 16, 2018 (the start of her benefit period), under section 30 of the *Employment Insurance Act* (Act).

## ISSUES

[4] Did the Claimant voluntarily leave her job?

[5] If so, considering all the circumstances, did she have a reasonable alternative to leaving her job?

## ANALYSIS

[6] Claimants who *voluntarily* leave a job without *just cause* cannot receive benefits.<sup>1</sup> To have just cause, claimants must prove that they had no reasonable alternatives to leaving.<sup>2</sup>

[7] Without more, it is generally a reasonable alternative for claimants to stay employed until they have secured another job.<sup>3</sup>

[8] Claimants do not have just cause for leaving if they leave their job to pursue studies not authorized by the Commission or its designate.<sup>4</sup>

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<sup>1</sup> This is a disqualification under section 30 of the Act

<sup>2</sup> Paragraph 29(c) of the Act.

<sup>3</sup> *Canada (Attorney General) v. Graham, 2011 FCA 311*

<sup>4</sup> *Canada (Attorney General) v. Côté, 2006 FCA 219*

**Did the Claimant voluntarily leave her job?**

[9] Yes. I find that the Claimant voluntarily left her job.

[10] The Commission must prove that it is more likely than not that the Claimant voluntarily left her employment.<sup>5</sup> The legal test is whether the Claimant had the choice to stay employed but chose not to.<sup>6</sup>

[11] The Claimant confirmed that she had the choice to stay employed, but only until her employment contract ended on October 31. The employer told the Commission that they did not tell the Claimant that she was going to be laid off. On her record of employment they reported that she quit to return to school.

[12] Even if the Claimant's employment was going to end in October, because she could have stayed employed until then but chose to leave in August, I find that she voluntarily left her employment.

**Considering all the circumstances, did the Claimant have a reasonable alternative to leaving?**

[13] Yes. I find that a reasonable alternative to leaving was for the Claimant to stay employed until her employment contract ended in October.

[14] Since the Claimant voluntarily left her job, to receive benefits the Claimant must prove on a balance of probabilities that she had just cause for leaving. Just cause does not simply mean that she had a good reason for leaving.<sup>7</sup> To prove that she had just cause, the Claimant must prove that it is more likely than not, having regard to all the circumstances, that she had *no reasonable alternative* to leaving when she did.<sup>8</sup>

[15] I find that the Claimant left her employment because she thought she was going to be laid off in October, and she made the personal decision to return to university to get a four-year degree, rather than the three-year degree she had originally decided upon.

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<sup>5</sup> *Green v. Canada (Attorney General)*, 2012 FCA 313

<sup>6</sup> *Canada (Attorney General) v. Peace*, 2004 FCA 56

<sup>7</sup> *Canada (Attorney General) v. White*, 2011 FCA 190

<sup>8</sup> Paragraph 29(c) of the Act

[16] The Claimant explained to the Tribunal that she had originally planned on graduating in the fall of 2018 with a three-year degree, but when she realized that she would not likely be kept on after her employment ended in October, she decided to return to university for a fourth year. This would allow her to graduate in 2019 with a four-year degree. She felt that the four-year degree would improve her employment prospects. Because she attended university in Nova Scotia, and was working in Alberta, she had to leave her job in order to return to university.

[17] The jurisprudence is clear that leaving employment to pursue studies not authorized by the Commission or its designate is not just cause under the Act<sup>9</sup>. There is no evidence before me that the Claimant's studies were authorized by the Commission or its designate.

[18] The Claimant argued that she had just cause to leave her job because she only decided to return to university because her job was ending in October, and she had not found other work. She stated that she was looking for another job, and if she had found another full-time job, she would have stayed in Alberta, and would not have completed her fourth year.

[19] I find that the Claimant has not proven that she had no reasonable alternative to leaving her job. I find that a reasonable alternative would have been to continue in her job until her contract ended in October. In the meantime, the Claimant could have spoken to her employer about the renewal of her employment contract, which she testified she did not do. Although the Claimant had difficulties getting information from her employer, she would have had more time to follow up on her requests if she had remained employed.

[20] My finding does not mean that leaving her job and returning to university was not an understandable and sensible choice. However, given the jurisprudence that leaving employment to pursue studies is not just cause, the Claimant has not proven that staying employed until her job ended was not a reasonable alternative.

## **CONCLUSION**

[21] The appeal is dismissed. The Claimant is disqualified from receiving benefits under section 30 of the Act from September 16, 2018.

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<sup>9</sup> *Côté, supra*, *Canada (Attorney General) v. Lessard*, 2002 FCA 469; *Canada (Attorney General) v. Bédard*, 2004 FCA 21; *Canada (Attorney General) v. Bois*, 2001 FCA 175

Angela Ryan Bourgeois  
Member, General Division - Employment Insurance Section

HEARD ON:	January 28, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	J. J., Appellant