



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. L. v Canada Employment Insurance Commission*, 2019 SST 273

Tribunal File Number: GE-18-3727

BETWEEN:

M. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Angela Ryan Bourgeois

HEARD ON: February 7, 2019

DATE OF DECISION: March 7, 2019

DECISION

[1] I am dismissing the Appellant's appeal because he had a reasonable alternative to leaving his job, which was to stay employed rather than return to school. If he was unhappy with his job, a reasonable alternative was to stay employed until he found another job that better met his needs.

OVERVIEW

[2] The Claimant is the Appellant, M. L. The Claimant left his job in X, Nova Scotia, to take the X course at Nova Scotia Community College in Springhill, Nova Scotia.

[3] The Canada Employment Insurance Commission (Commission) determined that the Claimant did not have just cause to voluntarily leave his job, and disqualified him from receiving benefits as of September 2, 2018 (the start of his benefit period), under section 30 of the *Employment Insurance Act* (Act).

ISSUES

[4] Did the Claimant voluntarily leave his job?

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

ANALYSIS

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

[7] Without more, it is generally a reasonable alternative for claimants to stay employed until they secure another job.³

¹ This is an indefinite disqualification under section 30 of the Act.

² Paragraph 29(c) of the Act

³ *Canada (Attorney General) v. Graham, 2011 FCA 311*

[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.⁴

Did the Claimant voluntarily leave his job?

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

[10] The Commission must prove that it is more likely than not that the Claimant voluntarily left his job.⁵ The legal test is whether the Claimant had the choice to stay employed but chose not to.⁶

[11] I find that the Claimant had the choice to stay employed because, in his application for benefits, the Claimant reported that he quit his job. He confirmed this at the hearing. Because he had the choice to stay employed but chose not to, I find that he voluntarily left his job.

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

[12] Yes. I find that a reasonable alternative to leaving was for the Claimant to stay employed, at least until he found another job.

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

[14] I find that the Claimant left his job to take the X course so that he could pursue a career in that field. The Claimant reported on his application for benefits that he quit his job to go to

⁴ *Canada (Attorney General) v. Côté*, 2006 FCA 219

⁵ *Green v. Canada (Attorney General)*, 2012 FCA 313

⁶ *Canada (Attorney General) v. Peace*, 2004 FCA 56

⁷ *Canada (Attorney General) v. White*, 2011 FCA 190

⁸ Paragraph 29(c) of the Act

school. Given the long distance between his work in X, and his course in Springhill, he could not have attended school in Springhill and maintained his job in X.

[15] The jurisprudence is clear that leaving employment to pursue studies not authorized by the Commission or its designate is not just cause under the Act⁹.

[16] In deciding if the Claimant had just cause to leave his job, I cannot consider his authorization under the Fast Forward program because his studies were not authorized under the program at the time he left.

[17] When determining if there was just cause for the Claimant to leave his job on August 31, 2018, I can only consider facts that existed at that time.¹⁰

[18] I find that his studies were not authorized when he left his job on August 31, 2018, because:

- a) he testified that he found out about the Fast Forward Program when he applied for employment insurance benefits, which was on September 6, 2018;
- b) he reported on his application for benefits that he did not ask about getting approval to take the course before he quit; and
- c) the effective date of his Fast Forward agreement is October 24, 2018.

[19] I find that leaving his job to go to school is not just cause under the Act because the Claimant has not proven that staying employed and not taking the course, was not a reasonable alternative.

[20] The Claimant argued that he had just cause to leave his job because:

- a) he did not consider it “quitting” because it was not a full-time job;

⁹ *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

¹⁰ *Canada (Attorney General) v. Lamonde*, 2006 FCA 44

- b) he did not have guaranteed hours, and his coworkers told him it would be slow over the winter;
- c) he felt he would have been laid off over the winter because there was no guarantee that his employer was going to have enough work;
- d) he was underpaid;
- e) he could not afford to buy a home or a new car given his wages and the uncertainty as to his hours; and
- f) he wanted to find reliable, steady work, which he will be able to do when he completes his course.

[21] I find that these circumstances do not amount to just cause for the Claimant to leave his job because if he was unhappy with the circumstances of his work, as described above, a reasonable alternative was for him to stay employed until he found another job. Staying employed until you have a new job is, without more, generally a reasonable alternative to quitting.¹¹

[22] While it is understandable that the Claimant wants to improve his financial situation by getting steady work with a higher wage, this desire is not just cause to leave his job¹² because a reasonable alternative was for him to stay employed until he found another job that met his needs. The evidence does not show that he could not have stayed employed until he found another job.

[23] Because the Claimant has not proven that staying employed and not going to school, or staying employed until he found another job, were not reasonable alternatives to leaving his job, the Claimant did not have just cause to leave. Since he voluntarily left his job without just cause, he is disqualified from receiving benefits as of September 2, 2018.

¹¹ *Graham, supra*

¹² See *Canada (Attorney General) v. Richard*, 2009 FCA 122 where the Federal Court of Appeal found that a claimant's desire to improve his financial situation is not just cause to voluntarily leave employment.

CONCLUSION

[24] The appeal is dismissed. The Claimant is disqualified from receiving benefits under section 30 of the Act from September 2, 2018.

Angela Ryan Bourgeois

Member, General Division - Employment Insurance Section

HEARD ON:	February 7, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	M. L., Appellant