



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *D. T. v Canada Employment Insurance Commission*, 2019 SST 277

Tribunal File Number: GE-19-802

BETWEEN:

D. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Christopher Pike

HEARD ON: March 4, 2019

DATE OF DECISION: March 11, 2019

DECISION

[1] D. T. is the Claimant in this appeal. His appeal is dismissed. The result is that the Claimant does not qualify for benefits because he has not proven that he had just cause for choosing to leave his employment. These reasons explain why.

OVERVIEW

[2] The Claimant's employer laid him off from full-time employment in June 2018. After this happened, he applied for a training program in X at X. The Claimant expected to start his training in September 2019 or September 2020. He found employment at a X with this expectation in mind.

[3] In early August 2018, X asked the Claimant if he would consider starting his training in September 2018. He agreed, and on August 31, 2018, X offered the Claimant a place in their program starting September 4, 2018. He had to accept this offer with 24 hours of receiving it. The Claimant accepted X's offer and left his employment at the X on September 2, 2018.

[4] The Claimant applied for benefits on September 4, 2019. The Canada Employment Insurance Commission (Commission) determined that the Claimant chose to leave his employment without just cause and disqualified him from receiving benefits. The Commission upheld this decision upon reconsideration. The Claimant appealed the decision to the Tribunal.

ISSUES

[5] I have to decide

- a) if the Commission has proven that the Claimant chose to leave his employment;
- b) and if so, whether the Claimant has proven he had just cause for choosing to leave.

ANALYSIS

[6] Employment insurance pays benefits to individuals involuntarily separated from employment and who are without work.¹ The Commission disqualifies a claimant from receiving

¹ *Canadian Pacific Ltd. v. Attorney General of Canada*, [1986] 1 S.C.R. 678 explains this principle.

benefits if they are unable to show they had just cause for choosing to leave their employment.² In this appeal the Claimant says he had just cause to leave his employment to attend a training program.

The Claimant chose to leave his employment.

[7] The Commission has to prove that the Claimant could have stayed in his job but chose to leave.³ The Claimant did not dispute that he chose to leave his employment at the X to start his training program. I therefore find that the Claimant made the choice to leave his employment.

The Claimant did not have just cause for choosing to leave his employment.

[8] Having found that the Claimant chose to leave his employment, I have to decide if he has proven that he had just cause for choosing to leave.

[9] The *Employment Insurance Act* lists circumstances which I have to consider when assessing if the Claimant has proven just cause for leaving his employment; but I am not limited to considering only those listed circumstances. What the Claimant has to prove is that all of his circumstances, whether listed or not, show it is more probable than not that he had had no reasonable alternative to leaving his employment.⁴

[10] The Claimant testified that he left high school three years ago. He testified that he left his employment and started his training September 2018 to better himself and to establish a career.

[11] The Claimant also testified that his training program generally has a two-year wait list, so when he applied for admission, he expected to be offered a place in September 2019 or September 2020. He said that for this reason, when he took the job at the X he expected to work there until at least September 2019.

² *Employment Insurance Act*, subsection 30(1) set out this principle.

³ *Canada (Attorney General) v. Peace*, 2004 FCA 56 explains that if a claimant chooses to leave their employment when they could have stayed, they have voluntarily left their employment within the meaning of sections 29 and 30 of the *Employment Insurance Act*. *Green v. Canada (Attorney General)*, 2012 FCA 313 explains that the Commission must prove that the claimant voluntarily left their employment.

⁴ Paragraph 29(c) of the *Employment Insurance Act* lists the circumstances. *Canada (Attorney General) v. White*, 2011 FCA 190 interprets paragraph 29(c) to require the claimants to prove their just cause. *Canada (Attorney General) v. Lessard*, 2002 FCA 469 discusses the requirement to consider all circumstances.

[12] The Claimant also testified the Nova Scotia Fast Forward program rejected his application for support. He also said that if he had known he would be offered a place in his training program in September 2019, he would have applied for employment insurance benefits in June 2018 after his previous employer laid him off.

[13] This evidence shows that the Claimant chose to leave his employment in September 2018 at his own initiative to pursue training which he expected would improve his employment prospects and allow him establish himself in a career.

[14] A general desire to increase one's income and generally improve their financial position may be good reason to leave employment but is not just cause as contemplated in the *Employment Insurance Act*.⁵ Similarly, the *Employment Insurance Act* does not recognize choosing to leave one's employment to pursue studies without a referral from the Commission or as constituting just cause under the Act.⁶

[15] The Claimant learned in early August 2018 that he might be offered a chance to start his training program in September 2018. At that time, X told him he could wait for the next course intake. Thus, on August 31, 2018, when he received X's offer to start his program on September 4, 2018, the Claimant was aware that he could choose to wait until September 2019 to start his training, when he originally expected to start.

[16] The Claimant's decision to start his training program earlier than planned was a good reason to choose to leave his employment. However, the Claimant cannot show just cause by proving he had a good reason for leaving his employment. I have to consider whether leaving his employment was the only reasonable course of action open to him, having regard to all his circumstances.⁷ Considering that the Claimant had the option to wait until the program's next intake to start his training program, I must find that he had the reasonable alternative to wait until then and remain employed at the X.

⁵ *Canada (Attorney General) v. Richard*, 2009 FCA 122 explain that this general desire does not show just cause. The law requires me to apply the principles set out in this case to the Claimant's appeal.

⁶ *Canada (Attorney General) v. Shaw*, 2002 FCA 32 explains the need for a referral to training. The law requires me to apply the principles set out in this case to the Claimant's appeal.

⁷ *Canada (Attorney General) v. Imran*, 2008 FCA 17 explains this requirement. The law requires me to apply the principles set out in this case to the Claimant's appeal.

[17] The Claimant also argued in his Notice of Appeal that he had paid into the employment insurance system for several years and expressed disappointment that it refused to support him in his present circumstances.

[18] The Commission does not pay benefits automatically. The Claimant must meet the requirements established by the *Employment Insurance Act* to claim benefits. The *Employment Insurance Act* is an insurance plan, and like other insurance plans, the Claimant must meet the conditions of the plan to obtain benefits.⁸ For reasons I have explained above the Claimant has not proven his qualifications to receive for benefits.

[19] I sympathize with the Claimant's position, but I have no authority to change the requirements of the *Employment Insurance Act* and may not interpret it in a manner contrary to its plain meaning.⁹

CONCLUSION

[20] The appeal is dismissed.

Christopher Pike

Member, General Division - Employment Insurance Section

HEARD ON:	March 4, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	D. T., Appellant

⁸ *Pannu v. Canada (Attorney General)*, 2004 FCA 90 explains that a claimant has to show that they meet the qualifications and eligibility rules in order to receive benefits. The law requires me to apply the principles set out in this case to the Claimant's appeal.

⁹ *Canada (A.G.) v. Knee*, 2011 FCA 301 says that I must apply the plain meaning of the *Employment Insurance Act* in my decision regardless of a claimant's personal circumstances and my sympathy for their position. The law requires me to apply this decision to the Claimant's appeal.