



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *R. B. v Canada Employment Insurance Commission*, 2019 SST 799

Tribunal File Number: GE-19-752

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: Josée Langlois

HEARD ON: March 21, 2019

DATE OF DECISION: March 21, 2019

## **DECISION**

[1] The appeal is dismissed. The Tribunal finds the Appellant did not have just cause for voluntarily leaving his employment.

## **OVERVIEW**

[2] The Appellant worked at X. He initially stated that he left his employment on April 14, 2018, for medical reasons because he had shoulder pain and difficulty performing certain tasks. During the reconsideration, the Appellant said that he experienced psychological harassment from his supervisor. The Commission denied the Appellant's application because it found that he had reasonable alternatives to voluntarily leaving his employment. The Tribunal must determine whether the Appellant had just cause for voluntarily leaving his employment.

## **ISSUE**

[3] Did the Appellant experience psychological harassment?

[4] Did the Appellant have no reasonable alternative to leaving his employment?

## **PRELIMINARY MATTER**

[5] The Appellant was not present at the hearing that was initially scheduled for February 21, 2019. The Appellant provided no telephone number or email address, so the Tribunal could contact him only by mail. On February 21, 2019, the notice of hearing was sent by priority mail, and the Appellant acknowledged receiving the notice of hearing. The Tribunal does not know what time the Appellant received the notice of hearing, but, since the Appellant did not contact the Tribunal or the registry to join the hearing, the Tribunal adjourned the hearing to allow the Appellant to prepare and attend the hearing.

[6] A new notice of hearing was sent to him by priority mail and regular mail. The hearing was then held on March 21, 2019. The Appellant was not present at the hearing. At no point did he attempt to contact the Tribunal. Since the Tribunal was satisfied that he received notice of the

hearing, the Tribunal found that the two parties had been informed of the hearing and proceeded in their absence.

## **ANALYSIS**

### **Voluntary Leaving**

[7] The Tribunal must determine whether the Appellant voluntarily left his employment, and the Commission must show that the leaving was voluntary (*Green*, 2012 FCA 313; *White*, 2011 FCA 190; *Patel*, 2010 FCA 95).

[8] The Appellant admits that he voluntarily left his employment after having a work-related accident on February 13, 2018. He stated that he left his employment because he had shoulder pain and difficulty performing certain tasks. He also indicated that he did not accept [translation] “getting yelled at” by his supervisor.

[9] The Tribunal finds that the Appellant voluntarily left his employment on April 14, 2018 (*Green*, 2012 FCA 313; *White*, 2011 FCA 190; *Patel*, 2010 FCA 95).

### **Did the Appellant experience psychological harassment?**

[10] The Appellant told the Commission that he had a work-related accident on February 13, 2018. Since the Appellant had a contusion on his shoulder, the employer suggested he do light work when he returned to work. After a week, the Appellant supposedly asked the employer to reinstate him to his position, but the employer allegedly refused, saying that the Appellant was no longer able to do that work. The employer asked the Appellant to work as an assembly line labourer.

[11] The Appellant agreed and started working on two assembly lines. He was later given three then four assembly lines. The Appellant stated that he could not handle four assembly lines.

[12] The Appellant also stated that he had asked a number of times to work on the extrusion line and that the employer had promised him he could, but that he had still not secured that position by the time he left. He allegedly left his employment for that reason.

[13] The Appellant explained that, after his accident, he did not experience a pay cut. Two weeks before leaving his employment, the doctor provided the Appellant with a medical note indicating that he was on sick leave. The employer did not pay for sick days, but the Appellant said that he would still work Saturdays and Sundays. As a result, he received \$320 in pay, which he considered to be insufficient. He also stated that he left for that reason.

[14] When he submitted his request for reconsideration, the Appellant said that his employer had subjected him to psychological harassment, that he had been mistreated, and that he could not continue to work for the company. The Appellant explained that his supervisor had pushed him to do more [translation] “lines” on the assembly line and had [translation] “yelled at” him. However, the Appellant stated that he had not seen a doctor or submitted a complaint for that reason.

[15] In his notice of appeal, the Appellant stated that, after a work-related accident, his supervisor started being rude.

[16] The employer told the Commission that, when the Appellant left his employment, the Appellant went to see [translation] “human resources” and he said that he was leaving and that he did not need to work. The employer explained that the Appellant had been hired as an assembly assistant and that there was no change to his position. The employer indicated that, if the Appellant wanted to secure another position, he could apply for the postings, but the employer pointed out that the Appellant had never done that.

[17] The Commission argues that the Appellant’s statements are inconsistent and that he saw a doctor who considered him to be fit for his employment. The Commission says that the Appellant did not demonstrate that he had health-related issues that required him to leave his employment. It argues that, although the Appellant stated that he had experienced harassment and racism and that his team leader yelled [translation] “at him,” he could have contacted those who could have stepped in, such as his union, or he could have filed a complaint to help him resolve the issue, which is not what he did.

[18] The Tribunal shares this view. The Tribunal finds that the Appellant was in a period of adjustment following his work-related accident on February 13, 2018. Since the Appellant was

initially hired to work on the assembly line, the employer suggested he do that work but without changing the Appellant's earnings. The Appellant stated that he found the adjustment to three then four assembly lines difficult. He claimed that the team leader [translation] "yelled at" him.

[19] The Tribunal is of the view that, although the Appellant felt that this experience was unpleasant, these explanations are insufficient to find that that the Appellant was subjected to psychological harassment by his immediate supervisor. The Appellant stated that he left because he did not like the work he did, but he did not apply for other positions. He also stated that he left his employment on April 14, 2018, because he did not understand his paycheque and that he did not receive the information he needed. However, the evidence is not sufficiently detailed for the Tribunal to find that the circumstances the Appellant described while he worked on the assembly line amount to harassment. The situation appears to be an isolated incident with his supervisor, who must also ensure safety on the assembly line. The Appellant was not used to working with four assembly lines and he was under pressure; however, he did not talk about the situation with the employer's human resources department, with the employer, with his immediate supervisor, or even with the union, when necessary.

[20] The Tribunal is of the view that, although the Appellant believes that the fact that his supervisor yelled at him is harassment and although that incident may have been unpleasant or may have demonstrated a lack of respect, the Tribunal cannot find from the submitted evidence that that person made demeaning statements to the Appellant. There is no evidence to that effect.

[21] The Tribunal is of the view that the Appellant cannot rely on the exemption in section 29(c)(i) of the Act (sexual or other harassment) to establish just cause for voluntarily leaving. Rather, the Tribunal is of the view that, as the Appellant told the Commission, he left his employment because he did not like working on the assembly line and because, after his medical leave, he did not understand the details on his paycheque.

**Did the Appellant have no reasonable alternative to leaving his employment?**

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

[23] The Commission submits that the Appellant's wage conditions were not changed and that, although he did not receive a reply about his paycheque, he could have waited to receive that reply before leaving his employment. The Commission also states that, before leaving his employment because he was unable to cope on the assembly line, the Appellant could have contacted others who could have stepped in to resolve his issue instead of leaving his employment for that reason.

[24] Furthermore, the Commission says that the Appellant made inconsistent statements about the potential position that he would have liked. The employer explained that the Appellant could have applied for a position when there was a posting, but he did not do so. The Commission states that the Appellant could have continued working until he secured a more suitable position.

[25] The Tribunal shares this view. The Appellant had the opportunity to apply for another position with the employer, and he could have also started looking for employment with another employer, but he did not do so.

[26] The Tribunal points out that claimants have, in most cases, an obligation to try to demonstrate efforts to seek alternative employment before taking a unilateral decision to leave their employment (*White*, 2011 FCA 190).

[27] However, not only did the Appellant fail to apply for a position with the employer that interested him, but he also failed to apply for positions with other potential employers. An alternative for the Appellant would have been to wait to have reasonable assurance of another employment before leaving his employment.

[28] The Tribunal finds that the Appellant did not have just cause for voluntarily leaving his employment on April 14, 2018, because he had reasonable alternatives to leaving his employment (*Astronomo*, A-141-97; *Tanguay*, A-1458-84; *Canada (Attorney General) v Peace*, 2004 FCA 56 (CanLII); *Landry*, A-1210-92).

**CONCLUSION**

[29] The appeal is dismissed.

Josée Langlois  
Member, General Division – Employment Insurance Section

HEARD ON:	March 21, 2019
METHOD OF PROCEEDING:	Teleconference