



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *A. V. v Canada Employment Insurance Commission*, 2019 SST 458

Tribunal File Number: GE-19-863

BETWEEN:

A. V.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Angela Ryan Bourgeois

HEARD ON: March 7, 2019

DATE OF DECISION: April 2, 2019

DECISION

[1] I am dismissing the appeal because I find that reasonable alternatives to quitting her job were for the Appellant (Claimant) to stay employed and not return to school, or, to have found a job in Halifax before leaving her job in X. This means that she cannot receive regular employment insurance benefits because she is disqualified from receiving benefits under section 30 of the *Employment Insurance Act* (Act).

OVERVIEW

[2] The Claimant, A. V., left her casual job as a cleaner at a hospital in X, Nova Scotia, to return to school in Halifax, Nova Scotia. She stated that she had to return to school to complete her Bachelor of Science degree because she wants to be a dentist.

[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 October 7, 2018 (the start of her benefit period), under section 30 of the 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.¹ To have just cause, claimants must prove that they had **no reasonable alternatives** to leaving.²

[7] Two rules that I have to keep in mind when considering just cause are:

¹ This is a disqualification under section 30 of the Act.

² This is set out in s 29(c) of the Act. To prove this means that it must be more likely than not that the claimant had no reasonable alternatives to leaving their job.

- a) Without more, it is generally a reasonable alternative for claimants to stay employed until they have another job.³
- b) Claimants do not have just cause for leaving a job if they leave to pursue studies not authorized by the Commission or its designate.⁴

Did the Claimant voluntarily leave her job?

[8] Yes. I find that the Claimant voluntarily left her job because she had the choice to stay employed but chose to leave to go to school.

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

[10] The Claimant stated that she did not leave her job voluntarily, but had to leave because she was returning to school in Halifax.

[11] The employer told the Commission that the Claimant could have continued to work if she had wanted to. The Claimant confirmed this at the hearing. There is no evidence that she could not have continued to work in her job.

[12] I agree with the Claimant that she could not have reasonably stayed employed in X, while living in Halifax. However, the choice she had, was to stay employed and not move to Halifax.

[13] Since the Claimant could stay employed, but chose to leave her job, I find that she voluntarily left her job.

Considering all the circumstances, did the Claimant have reasonable alternatives to leaving

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

⁴ This rule is found in the decision by the Federal Court of Appeal in *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

her job?

[14] Yes. Reasonable alternatives to leaving her job when she did were (i) to stay employed, or (ii) to find a job in Halifax before leaving.

[15] 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.

[16] Just cause does not simply mean that she had a good reason for leaving.⁷

[17] 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.⁸

She left her job to go to university in Halifax.

[18] I find that the Claimant left her job so that she could continue her university studies in Halifax. This required her to leave her job because she could not reasonably commute from Halifax to her job in X. There is no evidence that she left her job for any other reason.

She did not have just cause to leave her job to go to school.

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

[20] The Claimant stated that her studies were authorized under the Fast Forward program. She testified that she applied for the Fast Forward program at the end of September or early October, but not before, she left her job in August.

[21] When determining if the Claimant had just cause to leave her job in August, I can only consider facts that existed in August, not what happened after she left her job.¹⁰

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

⁸ Paragraph 29(c) of the Act.

⁹ This rule is found in these cases, *Côté*, cited above, *Canada (Attorney General) v Lessard*, 2002 FCA 469, *Canada (Attorney General) v Bédard*, 2004 FCA 21, and, *Canada (Attorney General) v Bois*, 2001 FCA 175.

¹⁰ This rule is found in the Federal Court of Appeal decision, *Canada (Attorney General) v Lamonde*, 2006 FCA 44.

[22] Since her studies were authorized after she left her job, I cannot consider her authorization under the Fast Forward program when I determine if she had just cause to leave her job.

[23] I find that leaving her job to go to school does not prove that staying employed was not a reasonable alternative because her studies were not authorized at the time she left her job, and leaving to go to school is not just cause under the Act.

Having enough hours to qualify for benefits does not mean that you have just cause to leave a job.

[24] The Claimant argued that she worked two jobs over the summer so that she would qualify for employment insurance benefits, just in case she did not find a job after she moved to Halifax.

[25] Unfortunately, having enough hours of insurable employment is not the only requirement to receive benefits. In the Claimant's case, because she voluntarily left her job, she must also prove that she had no reasonable alternatives to leaving her job.

Wanting to improve her situation is not just cause to leave a job.

[26] The Claimant argued that she should be entitled to employment insurance benefits now because it will help her get the education she needs to become a dentist. Then, she will not have to rely on employment insurance benefits.

[27] However, decreasing the odds of needing benefits in the future does not prove that she had no reasonable alternative to leaving her job in the present.

[28] While the Claimant has a legitimate desire to improve her education so that she can become a dentist, her desire is not just cause to leave a job.¹¹

[29] This does not mean that the Claimant did not make a good decision when she decided to return to school and continue her education. It simply means that the reason she left her job is not

¹¹ See *Canada (Attorney General) v Richard*, 2009 FCA 122 where the Federal Court of Appeal found that a claimant's desire to improve his lot or financial situation is not just cause to voluntarily leave a job.

just cause under the Act. Regrettably, having a very good reason for leaving a job is not the same as having just cause for leaving.

Staying employed until she found a job in Halifax was a reasonable alternative.

[30] The Claimant has not proven that staying employed until she found other work was not a reasonable alternative.

[31] The Claimant created her own unemployment situation by leaving her job before finding another one. She testified that she did not look for work before she moved. Other than moving for school, there was no reason why she could not have continued to work until she found another job.

[32] In these circumstances, I find that the Claimant has not proven that staying employed in X until she found work in Halifax was not a reasonable alternative to leaving her job when she did.

CONCLUSION

[33] For these reasons, I find that the Claimant has not proven that it is more likely than not, that staying employed and not going to school, or staying employed until she found work in Halifax, were not reasonable alternatives to leaving her job.

[34] Because the Claimant had reasonable alternatives to leaving her job, she did not have just cause for leaving. As such, she is disqualified from receiving benefits under section 30 of the Act from October 7, 2018. The disqualification means that she cannot receive regular employment insurance benefits.

[35] Since the Claimant appears to have several years of university ahead of her, she may decide to apply for employment insurance benefits and the Fast Forward program again. In that case, I encourage the Claimant to make inquiries about these programs **before** she leaves a job, including asking the administrators of the Fast Forward program about an “**authorization to quit**” form.

[36] The appeal is dismissed.

Angela Ryan Bourgeois
Member, General Division - Employment Insurance Section

HEARD ON:	March 7, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. V., Appellant