



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

*Citation: D. M. v Canada Employment Insurance Commission, 2019 SST 472*

Tribunal File Number: GE-18-2924

BETWEEN:

**D. M.**

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: Linda Bell

HEARD ON: April 17, 2019

DATE OF DECISION: April 18, 2019

## **DECISION**

[1] The appeal is dismissed. The Appellant D. M., whom I will refer to as the Claimant, is not entitled to regular Employment Insurance benefits because she voluntarily left her employment with X, without just cause.

## **OVERVIEW**

[2] The Claimant was working as a casual employee with X, in a month-to-month contract, when she voluntarily left on December 14, 2017. The Claimant stated that she chose to attend paid training courses with another employer, starting on November 29, 2017, in hopes that she could secure employment with them.

[3] Approximately two months later, the Claimant secured a 5-month casual employment contract with the new employer effective February 5, 2018, and lost this employment due to a shortage of work on April 27, 2018. On May 21, 2018, the Claimant made an initial claim for benefits and established a benefit period effective April 29, 2018.

[4] The Respondent, who is the Canada Employment Insurance Commission (Commission), determined that the Claimant voluntarily left her employment with X, without just cause, and imposed an indefinite disqualification from benefits. The Commission also determined that the Claimant was not entitled to regular benefits because she had not accumulated enough hours of insurable employment since leaving her employment with X.

[5] Upon reconsideration, the Commission maintained their decision. The Claimant appeals this decision to the Social Security Tribunal (Tribunal) and argues that she quit her temporary job with X to complete training in hopes that she could secure employment with the new employer.

## **ISSUES**

[6] Did the Claimant voluntarily leave her employment with X?

[7] If so, has the Claimant proven she had no reasonable alternative to leaving this employment?

[8] Has the Claimant acquired enough hours of insurable employment since the effective date of that disqualification?

## **ANALYSIS**

[9] As explained during the hearing, if the Claimant voluntarily left her employment, without just cause, she is disqualified from receiving regular benefits; unless, since leaving her employment, she has been employed in insurable employment for the required number of insurable hours to qualify for benefits.<sup>1</sup>

[10] The Commission has the burden to prove the Claimant voluntarily left her employment. Then, the burden of proof shifts to the Claimant to demonstrate she had just cause for leaving.<sup>2</sup>

### **1) Voluntary Leaving**

[11] To determine whether the Claimant has voluntarily left her employment, the following question is asked: did the Claimant have a choice to stay or to leave?<sup>3</sup>

[12] There is no dispute that the Claimant made the choice to voluntarily leave her casual employment with X. Accordingly, I find the Commission's burden has been met.

### **2) Just Cause**

[13] When determining whether just cause for voluntarily leaving employment exists, I must consider all the circumstances. I must also consider whether the Claimant had no reasonable alternative to leaving her employment.<sup>4</sup>

[14] A non-exhaustive list of specific circumstances that is to be considered, when determining whether there is just cause, is listed in paragraph 29(c) of the *Act*. These circumstances include reasonable assurance of another employment in the immediate future.

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<sup>1</sup> Subsection 30(1) of the *Employment Insurance Act (Act)*

<sup>2</sup> *Green v. Canada (Attorney General)*, 2012 FCA 313

<sup>3</sup> *Canada (Attorney General) v. Peace*, 2004 FCA 56

<sup>4</sup> Paragraph 29(c) of the *Act*

[15] The mere presence of one of the circumstances listed in paragraph 29(c) does not automatically prove the Claimant had just cause to leave her employment. This is because the Claimant must still prove she had no reasonable alternative to leaving.

**a) All Circumstances**

[16] When determining if the Claimant had just cause to leave her employment, the circumstances that must be considered under section 29(c) of the *Act*, are those which existed at the time the Claimant resigned from her employment.<sup>5</sup>

**i) Reasonable Assurance of another Employment**

[17] The Claimant stated that she was hired and placed in the temporary pool with the new employer, a few weeks before she was hired at X; however, she was not offered any hours of employment with the new employer at that time. The Claimant testified that she was working on a month-to-month basis with X when she was told that an opening might be coming up with the new employer, if she completed the required training. The Claimant stated that this is when she decided to quit X right away, a few weeks before any of the training courses commenced. She also stated that she left X because she did not like that job. She stated that her job at X involved collecting money and working in the hospice area, which she found to be too stressful.

[18] The Claimant does not dispute the Commission's evidence that on June 15, 2018, she stated that she could have continued working at X until she actually got a contract letter from the new employer. Nor does she dispute that she made the personal choice to leave her employment with X, prior to having a firm offer of employment from the new employer.

[19] Even though the Claimant provided new evidence as to when she was first hired as a temporary employee with the new employer, I must consider that, where there is only a conditional offer of employment, or no concrete offer of employment, the test of reasonable assurance of another job has not been met.<sup>6</sup>

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<sup>5</sup> *Canada (Attorney General) v. Lamonde*, 2006 FCA 44

<sup>6</sup> *Canada (Attorney General) v. Shaw*, 2002 FCA 325

[20] I find the evidence, as set out above, supports a finding that the Claimant has failed to prove that she had reasonable assurance of other employment at the time she quit her employment with X as of December 14, 2017. The Claimant readily admitted that she had no offer of a contract or scheduled hours to work from the new employer when she quit X. The Claimant argued that she was operating on the basis that she required the additional training, offered by the new employer, before she could be offered a position, and she could not attend this training while working at X. As such, I find the Claimant has not proven she left her employment with X due to a reasonable assurance of other employment.

**ii) Quit to attend training**

[21] I recognize that the Claimant made a personal choice to leave her employment with X, because she found it stressful, and that she chose to complete training with the new employer in hopes of acquiring a better job, at a higher rate of pay. Although a personal choice may constitute good cause, it is not synonymous with the requirements to prove just cause for leaving employment and causing others to bear the burden of the Claimant's unemployment.<sup>7</sup>

[22] Further, it is settled law that leaving one's employment in order to pursue studies or training does not constitute just cause under the *Act*.<sup>8</sup> In response to the Claimant's argument that she would make more money based on her new employment, the Courts have consistently upheld that sincerity and inadequate income do not constitute just cause for voluntarily leaving employment and making the Employment Insurance system bear the cost of supporting the Claimant.<sup>9</sup>

[23] I also refer to *Canada (Attorney General) v. Richard*, 2009 FCA 122, in which the Federal Court of Appeal summarized the law as follows. "However noble and legitimate the desire to improve one's lot may be, this desire is not, for the purposes of sections 29 and 30 of the *Act*, a legal justification for voluntarily leaving one's employment."

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

<sup>8</sup> *Canada (Attorney General) v. Trochimchuk*, 2011 FCA 268

<sup>9</sup> *Canada (Attorney General) v. Campeau*, 2006 FCA 376

**b) Reasonable Alternatives**

[24] When considering all of the circumstances presented by the Claimant, I find she has failed to prove she had no reasonable alternative to quitting her casual employment with X. The question is not whether it was reasonable for the Claimant to leave her employment; rather, the question is whether leaving the employment was the only reasonable course of action open to her.<sup>10</sup>

[25] The circumstances presented by the Claimant do not prove there was any urgency for her to leave her employment with X. While it may have been her preference to leave because she did not like that job; the fact remains that she chose to permanently sever her employment relationship with X in favour of trying to secure a temporary contract with a different employer. As such, I am not convinced that leaving her employment with X was the only reasonable course of action open to the Claimant. Rather, it would have been reasonable for the Claimant to maintain her employment relationship with X. She could have requested a period of leave while she the other contract with the new employer; if she was ill or stressed she could have sought the assistance from her doctor to request leave; or attempted to return to work with X after her contract with the new employer ended early due to a shortage of work.

[26] Although it is understandable that the Claimant would want to take the courses offered by the new employer in hopes that she could secure long-term employment with them, she was well aware of the fact that, at the time she quit her employment with X, she may only be offered a short-term contract with the new employer.

[27] Having regard to all the circumstances, as set out above, I find the Claimant had reasonable alternatives to quitting her full-time employment with X; therefore, the Claimant has not proven just cause for leaving her employment with X and is subject to an indefinite disqualification.<sup>11</sup>

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<sup>10</sup> *Canada (Attorney General) v. Laughland*, 2003 FCA 12

<sup>11</sup> Section 30 of the Act

**3) Has the Claimant acquired enough hours of insurable employment since the effective date of the disqualification?**

[28] No. Once it is determined that the Claimant voluntarily left her employment without just cause, she is disqualified from benefits until she has accumulated the required number of insurable hours to qualify for benefits.<sup>12</sup>

[29] It is undisputed that the Claimant resides in an economic region whose regional rate of unemployment on April 29, 2018, and May 21, 2018, was 6.8%. Nor is there any dispute that the Claimant requires 700 hours of insurable employment to qualify for benefits as of April 29, 2018.<sup>13</sup>

[30] Based on the Record of Employment issued by the new employer, as of April 29, 2018, the Claimant had acquired only 322 hours of insurable employment since the date of disqualification for voluntarily leaving her employment with X, without just cause. Accordingly, the Claimant has not acquired enough hours of insurable employment to qualify for regular benefits.

**CONCLUSION**

[31] The appeal is dismissed.

Linda Bell

Member, General Division - Employment Insurance Section

HEARD ON:	April 17, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	D. M. (a.k.a. X) Appellant (Claimant)

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<sup>12</sup> Paragraph 30(1)(a) of the *Act*

<sup>13</sup> Subsection 7(2) of the *Act*