



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *D. B. v Canada Employment Insurance Commission*, 2019 SST 466

Tribunal File Number: GE-19-893

BETWEEN:

D. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Catherine Frenette

HEARD ON: April 9, 2019

DATE OF DECISION: April 11, 2019

DECISION

[1] The appeal is dismissed.

OVERVIEW

[2] The Appellant worked for the employer from March 19, 2018, to March 23, 2018. The Appellant left his employment because he did not have enough money to get to work for another week since the employer would pay him every two weeks instead of weekly. The Appellant asked for his benefit period to be renewed on September 19, 2018.

[3] The Canada Employment Insurance Commission (Commission) denied the Appellant Employment Insurance regular benefits because he had voluntarily left his employment without just cause.

[4] The Tribunal must therefore determine whether the Appellant had just cause to leave his employment.

PRELIMINARY MATTERS

[5] The Tribunal scheduled the hearing for 10 a.m. on April 9, 2019, and it sent the Appellant a notice of hearing. On March 18, 2019, the Appellant personally signed to confirm that he had received the notice of hearing, as the Canada Post certificate of service shows.

[6] On April 4, 2019, a Tribunal employee left the Appellant a phone message to make sure that he had received the notice of hearing and remind him of the date and time of the hearing. The Appellant did not return the call.

[7] On the day of the hearing, the Appellant did not appear. The Tribunal is satisfied that the Appellant received notice of the hearing, and it proceeded in his absence (section 12(1) of the *Social Security Tribunal Regulations*).

ISSUE

[8] The Appellant does not dispute that he left his employment voluntarily. Consequently, there is only one issue:

[9] Did the Appellant have no reasonable alternative to leaving?

ANALYSIS

[10] A claimant is disqualified from receiving any benefits if the claimant voluntarily left any employment without just cause (sections 29 and 30 of the *Employment Insurance Act* (Act)).

Did the Appellant have no reasonable alternative to leaving?

[11] A person has just cause for leaving their employment if, having regard to all the circumstances, including those listed in section 29(c) of the *Employment Insurance Act* (Act), there were no reasonable alternatives to leaving (*Green v Canada (Attorney General)*, 2012 FCA 313). Therefore, the claimant must not have [translation] “other reasonable alternatives to leaving their employment” (*Astronomo v Canada (Attorney General)*, A-141-97).

[12] The claimant is responsible for proving, based on the balance of probabilities, that they had just cause for leaving (*Chaoui v Canada (Attorney General)*, 2005 FCA 66; *Canada (Attorney General) v White*, 2011 FCA 190).

[13] It is not sufficient for the claimant to have good cause or good reason for leaving their employment. There must be no reasonable alternative (*Canada (Attorney General) v Laughland*, 2003 FCA 129; *Canada (Attorney General) v Campeau*, 2006 FCA 376).

[14] The Appellant explained to the Commission that he had left his employment because the employer did not inform him that he would be paid every two weeks. Usually, private companies would pay him weekly, and he assumed that this employer would do the same. However, the Appellant did not ask the employer about its payment methods.

[15] The Appellant explained that he had had money only for one week of travel.

[16] The Appellant explained that he was transitioning from social assistance and that he did not have a lot of money. The Appellant therefore could not wait one more week to receive his wages. The Appellant explained that, if he had known, he would have gone to work elsewhere.

[17] The Appellant did not discuss the situation with his employer, and he did not see whether he could carpool with another employee.

[18] The employer told the Commission that the Appellant never spoke to it about financial problems. The Appellant called on April 6, 2018, to inform the employer that he would not be returning. The employer explained to the Commission that payroll advances are sometimes given to employees in exceptional circumstances. Usually, the employer refers the employee for help and advice. However, the employer mentioned that it definitely would not have given the Appellant an advance because it gives them to employees who have been in their positions for some time, which was not the Appellant's case.

[19] The employer confirmed that the workplace was in an industrial park that is difficult to access by public transit.

[20] The Commission is of the view that the Appellant should have found out whether being paid every two weeks would prejudice him before accepting the employment. The Commission is of the view that the difficulty of finding a means of transportation to get to work is not just cause.

[21] Furthermore, the Commission is of the view that the Appellant did not have just cause to leave his employment because he failed to exhaust all reasonable alternatives before leaving his employment. The Commission is of the view that the Appellant could have considered carpooling while waiting for his first pay, taking public transit, and asking his family for assistance.

[22] The Tribunal is of the view that the Appellant failed to show that he had no reasonable alternative to leaving in his situation (*Chaoui, supra*; *White, supra*).

[23] First, the Appellant could have discussed his situation with his employer to try to find a solution (*Canada (Attorney General) v Hernandez*, 2007 FCA 320; *White, supra*). The Appellant could even have asked his employer for leave while he waited to have enough money to get to work.

[24] Next, the Appellant could have tried to find another way to get to work, such as carpooling with a co-worker.

[25] In addition, the Appellant could have spoken with those close to him to try to find another solution to get to work.

[26] The Tribunal notes that the purpose of the Act is to compensate workers who find themselves involuntarily unemployed (*Canada (Canada Employment and Immigration Commission) v Gagnon*, [1988] 2 SCR 29). In this case, the Appellant caused his unemployment situation by leaving his employment without exhausting all reasonable alternatives available to him.

[27] Consequently, the Appellant has failed to show that he had just cause for leaving his employment (*Chaoui, supra*; *White, supra*).

CONCLUSION

[28] The appeal is dismissed.

Catherine Frenette
Member, General Division – Employment Insurance Section

HEARD ON:	April 9, 2019
METHOD OF PROCEEDING:	In person