



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

*Citation: T. O. v Canada Employment Insurance Commission, 2019 SST 798*

Tribunal File Number: GE-19-1484

BETWEEN:

**T. O.**

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: Manon Sauvé

HEARD ON: May 2, 2019

DATE OF DECISION: May 17, 2019

## **DECISION**

[1] The appeal is dismissed.

## **OVERVIEW**

[2] The Appellant, T. O., worked at X starting 2013. She stopped working on May 20, 2018.

[3] On May 24, 2018, the Appellant filed a claim for Employment Insurance benefits. A benefit period was established.

[4] On May 25, 2018, the Appellant started a new employment with a cleaning company. On July 6, 2018, she left her employment.

[5] In the Commission's view, the Appellant voluntarily left her employment without just cause. She is therefore no longer entitled to receive benefits as of July 6, 2018.

[6] According to the Appellant, she worked few hours and was simply replacing someone during the holidays.

## **PRELIMINARY MATTER**

[7] The Tribunal file indicates that on April 10, 2019, the Appellant was duly summoned by email to the May 2, 2019, hearing.

[8] The Appellant sent additional documents to the Tribunal on April 17, 2019.

[9] The Tribunal waited 30 minutes before starting the hearing. The Appellant did not show up.

[10] In accordance with section 12(1) of the *Social Security Tribunal Regulations* (Regulations), if a party fails to appear at a hearing, the Tribunal may proceed in the party's absence if the Tribunal is satisfied that the party received notice of the hearing.

[11] In this context, the Tribunal was satisfied that the Appellant had received notice of the hearing, so it proceeded with the hearing.

## ISSUES

1. Did the Appellant voluntarily leave her employment?
2. If so, did the Appellant have just cause for voluntarily leaving her employment?

## ANALYSIS

[12] The Tribunal must determine whether the Appellant should be disqualified from receiving benefits as of July 6, 2018, because she voluntarily left her employment without just cause under sections 29 and 30 of the *Employment Insurance Act* (Act).

### **Issue 1: Did the Appellant voluntarily leave her employment?**

[13] First, the Tribunal must decide whether the Appellant left her employment voluntarily. The question to be answered is the following: Did the Appellant have a choice to stay or to leave?<sup>1</sup>

[14] The Commission has a duty to show that, on a balance of probabilities, the Appellant voluntarily left her employment.<sup>2</sup> The term “balance of probabilities” means that the Commission must show that it is more likely than not that the Appellant left her employment.

[15] If the Commission proves that the Appellant voluntarily left her employment, the Appellant must prove that she had just cause for leaving.<sup>3</sup>

[16] The Tribunal has notes from the Commission stating that the Appellant stopped working for a footwear store on May 20, 2018. She filed a claim for Employment Insurance benefits a few days later.

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<sup>1</sup> *Canada (Attorney General) v Peace*, 2004 FCA 56.

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

<sup>3</sup> *Green v Canada (Attorney General)*, 2012 FCA 313.

[17] The Commission established a benefit period starting on May 27, 2018. While the Appellant was receiving Employment Insurance benefits, she started working for a cleaning company called X. The Appellant worked an average of 15 hours per week.

[18] The Appellant stopped working for X on July 6, 2018. She did not inform the Commission of the change in her situation. The Appellant should have declared her earnings and her employment end date.

[19] The Commission adjusted the benefits the Appellant was entitled to, based on her earnings. It also denied the Appellant Employment Insurance benefits as of July 6, 2018, when she allegedly voluntarily left her employment.

[20] According to the Commission's notes, the Appellant stated that she was replacing staff who were on holiday, after which time she was on call for only a few hours per week. The employer stated that the Appellant had left her employment to return to school.

[21] On April 15, 2019, the Appellant provided a letter from the president of X confirming that she had worked from May 25, 2018, to July 6, 2018, as a replacement during the holidays. The Tribunal is of the view that this letter confirms what we already knew but does not prove that the Appellant voluntarily left her employment.

[22] The Tribunal notes from the evidence on file that, in her request for reconsideration, the Appellant provided several reasons for voluntarily leaving her employment (GD3-31).

[23] Accordingly, the Tribunal finds that the Commission has proven, on a balance of probabilities, that the Appellant voluntarily left her employment.

**Issue 2: If so, did the Appellant have just cause for voluntarily leaving her employment?**

[24] The Appellant has an obligation to establish, on a balance of probabilities, that she had just cause for voluntarily leaving her employment. To do this, she must show that, having regard to all the circumstances, she had no reasonable alternative but to leave.

[25] The Tribunal notes that the Appellant provided a list of reasons to justify her leaving, including insufficient salary, business pursuits, irregular work hours, and travel expenses.

[26] The Tribunal notes that the Appellant failed to demonstrate that her travel expenses were high or that her work hours were irregular. The Record of Employment the employer provided shows that the Appellant worked 15 hours per week.

[27] The Tribunal is of the view that finding her salary insufficient does not amount to just cause for leaving her employment to receive Employment Insurance benefits.<sup>4</sup>

[28] The Tribunal is also of the view that the Appellant's business pursuits cannot justify her leaving. It is her choice if she wants to prioritize starting her business, but she cannot force all insureds to take responsibility for her personal decisions.

[29] In the Commission's view, the Appellant could have continued to work a few hours per day while looking for a higher-paying job that better suited her needs. By leaving her employment, the Appellant chose to become unemployed.

[30] In the Appellant's view, she had no choice because she needed a higher income to meet the needs of her child.

[31] The Tribunal is of the view that the Appellant did not have just cause for leaving her employment and that she had reasonable alternatives to leaving. The Appellant could have found another employment before leaving.

## **CONCLUSION**

[32] The Tribunal finds that the Appellant must be disqualified from receiving benefits because she voluntarily left her employment on July 6, 2018. The Tribunal finds that the Appellant did not have just cause for voluntarily leaving her employment and that, having regard to all the circumstances, she had reasonable alternatives to leaving under sections 29 and 30 of the Act.

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<sup>4</sup> Tremblay, A-50-94.

[33] The appeal is dismissed.

Manon Sauvé

Member, General Division – Employment Insurance Section

HEARD ON:	May 2, 2019
METHOD OF PROCEEDING:	In person