



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation : *D. B. v Canada Employment Insurance Commission*, 2019 SST 860

Tribunal File Number: GE-19-2331

BETWEEN:

D. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Linda Bell

HEARD ON: July 11, 2019

DATE OF DECISION: July 22, 2019

DECISION

[1] The appeal is allowed. The Claimant has shown just cause because he voluntarily left his employment to follow his spouse to another residence.

OVERVIEW

[2] The Claimant had worked for his employer for three years when he voluntarily left to accompany his spouse in their move from the city to another community. The Commission determined that the Claimant is not entitled to regular benefits because he voluntarily left his employment without just cause.

[3] Upon reconsideration, the Commission maintained their decision. The Claimant disputes this decision and argues that the Commission failed to consider all of his circumstances.

THE CLAIMANT DID NOT ATTEND THE HEARING

[4] The Claimant did not attend the hearing. A hearing is allowed to go ahead without the Claimant if the Claimant was given notice of the hearing.¹ I believe that the Claimant received the notice of hearing because in his July 9, 2019, email he confirms receipt of the documents sent by the Tribunal and states he will not be attending the hearing because it is best the Tribunal Member proceed in his absence. So, the hearing proceeded on the date that was scheduled, but without the Claimant.

ISSUES

[5] I must decide whether the Claimant is disqualified from being paid regular benefits because he voluntarily left his job without just cause. To do this, I must first address the Claimant's voluntarily leaving. I then have to decide whether the Claimant had just cause for leaving.

¹ Section 12 of the *Social Security Tribunal Regulations*

ANALYSIS

a) Voluntary Leaving

[6] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit on November 2, 2018. I see no evidence to contradict this.

b) Just Cause

[7] The parties do not agree that the Claimant had just cause for voluntarily leaving his job when he did.

[8] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you did not have just cause. Having a good reason for leaving a job is not enough to prove just cause.

[9] The law says that you have just cause to leave if, considering all of the circumstances, you had no reasonable alternatives to quitting your job when you did. It is up to the Claimant to prove this. The Claimant has to show that it is more likely than not that he had no reasonable alternatives but to leave when he did. When I decide this question, I have to look at all of the circumstances that existed at the time that the Claimant quit.

[10] The Claimant states on his application for benefits that he is married and he left his employment due to an obligation to accompany his spouse to another residence. This circumstance is an exception to be considered when determining whether there is just cause.² In order for this exception to apply, it is essential that a spousal relationship exist. As the Claimant states he is married to his spouse, I accept that a spousal relationship exists in this matter.

[11] The Claimant states that his wife was earning a higher wage than him, prior to her becoming sick and going off work on long-term disability. He submitted a document signed by his wife's physician on June 19, 2019, which indicates that she is ill and her recovery date is unknown.

² As provided under subparagraph 29(c)(ii) of the Act.

[12] The Claimant told the Commission on April 18, 2019, that when his wife's long-term disability payments ended in September or October 2018, they could no longer meet their financial obligations. They determined that they would sell their house and move to an area where they could sustain themselves financially during his wife's recovery. Their house sold in October 2018. The Claimant argued that their new home was too far away from his employment to commute.

[13] I do not accept the Commission's submission that the Claimant was required to consider the reasonable alternative of securing work in the area of relocation before quitting or relocating. Nor do I accept that he was required to remain in his current employment while he sold his family home and tried to secure alternate accommodations in the area where he was working because the Claimant acted based on his obligations to his spouse to be financially responsible during her recovery period.

[14] The Federal Court of Appeal has upheld an Umpire's decision which suggested that the "obligation to accompany" can arise from the simple fact of the marital relationship and states:

[15] ... in the particular circumstances in this appeal and perhaps taking a liberal rather than a literal interpretation of the statute, I find the claimant acted as any loving, intelligent spouse would have acted. Obligation is defined in the same Oxford Dictionary as Inter Alia 'binding agreement, written contract or bond, a duty.'³

[16] The law states that there is no requirement that the other spouse whom the claimant accompanies must have moved to obtain employment.⁴

[17] Although I am not bound by decisions rendered by the Social Security Tribunal Appeal Division, I agree with Member Cheng's decision in *P.G. v. Canada Employment Insurance Commission*, 2016 SSTADEI 116, in which she clarifies that the principle established in the above-mentioned Federal Court decisions is:

[32] ... where a claimant establishes that he or she has an obligation to accompany a spouse, common-law partner or dependent child to another residence, it is not

³ *Canada (Attorney General) v. Rust* A-650-950

⁴ *Canada (Attorney General) v. Mullin* A-466-95

necessary to consider whether there is a reasonable alternative; specifically, that of, not changing places of residence before being assured of other employment.

[18] Upon consideration of all of the circumstances presented by the Claimant, I find he has met the exception that he had an obligation to accompany his spouse to another residence. Accordingly, I find the Claimant had just cause for leaving his employment and is therefore, entitled to regular benefits.

CONCLUSION

[19] The appeal is allowed.

Linda Bell
Member, General Division - Employment Insurance Section

HEARD ON:	July 11, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	None