



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. R. v Canada Employment Insurance Commission*, 2019 SST 941

Tribunal File Number: GE-19-2420

BETWEEN:

M. R.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Teresa Jaenen

HEARD ON: July 16, 2019

DATE OF DECISION: August 2, 2019

DECISION

[1] The appeal is allowed. The Claimant has shown just cause because he had no reasonable alternatives to leaving his job when he did. This means he is not disqualified from receiving benefits.

OVERVIEW

[2] The Claimant left his job on April 12, 2019, and applied for employment insurance (EI) benefits. The Commission looked at the Claimant's reasons for leaving and decided that he voluntarily left his employment without just cause, so it was unable to pay him benefits.

[3] I must decide whether the Claimant has proven that he had no reasonable alternatives for leaving his job. The Commission says that the Claimant could have stayed working and/or seek other suitable employment. The Claimant did not seek approval to leave his employment prior to attending the course nor could he demonstrate that he would have been approved, had he submitted the request in a timely manner. The Claimant disagrees and states that he was not able to get the "Counsel to Leave Employment" form because Service Canada directed X only to issue a letter prior to quitting. I find that the Claimant did not have any reasonable alternatives to leaving when he did.

[4] The Appellant, M. R., whom I will call the Claimant, left his job to attend his fourth year of his approved apprenticeship course. The Respondent, the Canada Employment Insurance Commission, whom I will call the Commission, advised the Claimant that aside from being an approved training course, he would need to demonstrate he had just cause for leaving and would require a "Counsel to Leave Employment" form. The Claimant's representative contacted the Apprenticeship Manitoba but they would not provide the form because too much time had passed since the Claimant's last day of work. The Commission maintained its initial decision to deny the Claimant benefits.

PRELIMINARY ISSUES

[5] Ms. Sandra Guevara-Holquin, the Claimant's representative, advised that in addition to representing the Claimant, she would be providing testimony. She stated that she had conversations with the agent that are not included in the transcripts that are relevant to the appeal.

[6] Graham Smith-Peloquin and Anna Dykiert, students from the Community Unemployed Help Centre, observed the hearing.

ISSUES

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

ANALYSIS

[8] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit on April 12, 2019. I see no evidence to contradict this.

[9] The Commission does not agree that the Claimant had just cause for voluntarily leaving his job when he did.

[10] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you did not have just cause.¹ Having a good reason for leaving a job is not enough to prove just cause.

[11] 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.² It is up to the Claimant to prove this.³ The Claimant has to show that it is more likely than not that he had no reasonable

¹ This is set out at s 30 of the *Employment Insurance Act*

² *Canada (Attorney General) v White*, 2011 FCA 190, at para 3, and s 29(c) of the *Employment Insurance Act*.

³ *Canada (Attorney General) v White*, 2011 FCA 190, at para 3.

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.

[12] The Claimant says that he left his employment because he was scheduled to go to school and take his level 4 Construction Electrician Apprenticeship on April 15, 2019. He stated that he had not been able to find a job in his trade so he took a job as a rodman, but he was still in an approved training course. He stated that he had never had any issues receiving EI when he attended his other levels and neither he nor his Union Representative were aware he would require a "Counsel to Leave Employment" form at any time. He stated that he had no reasonable alternatives to leaving at that time because he was required to attend his course and he did not know he would need that form.

[13] The Commission says that the Claimant did not have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Claimant could have stayed employed or he could have sought approval to leave his employment prior to attending his training.

[14] I find that the Claimant left his employment to attend his level 4 apprenticeship training. The fact the training was authorized is not disputed, but rather, if the Claimant had just cause to leave the employment when he did.

[15] The Commission says the Claimant did not seek approval to leave his employment to attend training.

[16] The Claimant's witness testified that after the letter that proved the Claimant was authorized to take the course⁴ she spoke to the agent. She testified the agent agreed that the Claimant was on a government-sponsored training but needs the counsel to quit letter. She testified the agent advised to go back to the Manitoba Government and get the letter and have them backdate it. She testified that when she called the Manitoba Government she was told she could not issue it because it was passed the date and that she had been told by the Commission that she was not allowed to backdate letters.

⁴ GD3-24

[17] The Claimant's witness testified that the conversation⁵ they did not discuss the Claimant taking a leave of absence. There was a discussion regarding a reasonable alternative would have been to get the letter. However, this was not reasonable because the Claimant did not know about the letter.

[18] The Claimant's witness testified that during the conversation⁶ she had with the agent on June 12, 2019, she told the agent that the Claimant was being disqualified on a technicality and she asked what section of the Act states he must have the letter. She testified that the agent told he had not checked the Act, but rather relied on section 19.1.1 of the Digest of Principals and agreed that it does not specify that a letter is required. The agent told her he would speak to his team leader and call her back. However, he never did, and the following Monday, the Claimant received the decision to deny him benefits.

[19] The Claimant's representative says that the agent made their decision on the Digest and not on the Act. The Digest does not mention specifically or refer to a letter or any document in particular. She stated that the Claimant had never been advised by any authorized person, including his union representative or by Manitoba Skills and Training that he would need to provide a specific document.

[20] The Claimant confirmed that he knew he was on approved training but he was never told about this requirement. He testified that he had never had any issues in the prior years of taking his training. He testified that he was working in the only job he could find, and he advised his employer that in April 2019, he was scheduled to take his level 4 training, that was an approved course. He confirmed that he worked until April 12, 2019, and started his course April 15, 2019, and he was able to obtain employment again in June 2019.

[21] I find the witness's testimony to be credible and that the Commission agreed that the Claimant was on an approved training course and that the agent had told her the decision had not been based on the Act, but on the 19.1.1 of the Digest of Principals.

⁵ GD3-33

⁶ GD-35

[22] I find that the Commission did not provide any submission in the appeal to support their application of section 19.1.1 of the Digest of Principals that would support the Claimant be required to provide the counsel to quit letter.

[23] I reviewed section 19.1.1 of the Digest of Principals and agree with the Claimant and his representative that it supports that the Claimant was authorized to take his level 4 by an authorized authority.

[24] I also reviewed section 19.2.3 of the Digest of Principals. It states voluntary leaving employment to take a course or an employment activity, a person who leaves employment on the recommendation of an authorized official to take courses or program of instruction or employment activity to which he or she was referred, is considered to have just cause to leave that employment provided, he or she leaves within a reasonable period, that is, generally no more than two weeks before the start of the course or the employment activity.

[25] I find the evidence of the record of employment and the dates of the Claimant's approved course, the Claimant met the criteria as he worked until April 12, 2019, and he started his course on April 15, 2019.

[26] I do not find that either section 19.1.1 or 19.2.3 stated the Claimant was required to provide a counsel to quit letter.

[27] I am of the view that section 25 of the Act does not state a claimant is required to provide a counsel to quit letter.

[28] The Claimant testified that 8 months before his training he was required to sign up for his level 4, and at that time, he had to pay his registration, as well as pick his date to go. He stated that he picked April for his training time. At that time, he understood he was accepted and sponsored and he received a written confirmation. He stated that had he known he would have obtained the letter prior to quitting.

[29] I find the Claimant to be honest and forthcoming when he testified that he had no idea about the letter. I accept the documentation on the file from his union representative that they were also unaware of this requirement.⁷

[30] I find that because the Claimant was not made aware of the requirement until after he had started his course, it would not have been reasonable for him to get the document before he quit.

[31] I am satisfied that the Claimant had no reason to believe that he would not have been approved for EI benefits as he was on an authorized training course, and had never been required to provide any letters before. Therefore, it would not have been a reasonable alternative to remain employed.

[32] After considering all of the circumstances together, the Claimant did not have any reasonable alternative to leaving.

CONCLUSION

[33] I find that the Claimant is not disqualified from receiving benefits.

[34] The appeal is allowed.

Teresa Jaenen

Member, General Division - Employment Insurance Section

HEARD ON:	July 16, 2019
METHOD OF PROCEEDING:	Videoconference
APPEARANCES:	M. R., Appellant Sandra Guevara-Holquin, Representative for the Appellant

⁷ GD5-2 to GD5-4

