



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *L. L. v Canada Employment Insurance Commission*, 2019 SST 881

Tribunal File Number: GE-19-2228

BETWEEN:

**L. L.**

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: Suzanne Graves

HEARD ON: August 7, 2019

DATE OF DECISION: August 13, 2019

## **DECISION**

[1] The appeal is dismissed. The Claimant has not shown just cause because he had reasonable alternatives to leaving his job when he did. This means he is disqualified from receiving benefits.

## **OVERVIEW**

[2] The Claimant worked for about nine months as a food assembler in a factory. He left his job 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 to leaving his job. The Commission says that the Claimant could have looked for another job before leaving, made a health and safety complaint or sought medical recommendations.

[4] The Claimant disagrees and states that he had no alternatives to leaving since the late hours and work environment were harmful to his physical and mental health. I find that he had reasonable alternatives to quitting.

## **PRELIMINARY MATTERS**

[5] The General Division of the Tribunal held a hearing on the Claimant's appeal on February 28, 2019, and issued a decision to dismiss the appeal. The Claimant appealed that decision to the Appeal Division of the Tribunal. The Appeal division allowed the appeal and returned the appeal to the General Division for a new hearing.

## **ISSUE**

[6] 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 decide whether the Claimant left voluntarily. I then have to decide whether the Claimant had just cause for leaving.

## ANALYSIS

### **There is no dispute that the Claimant voluntarily left his job**

[7] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit on October 18, 2018. I see no evidence to contradict this.

### **The parties dispute that the Claimant had just cause for voluntarily leaving**

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

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

[10] You may have just cause to leave your employment voluntarily if you are harassed<sup>2</sup> or experience antagonism with a supervisor when you are not primarily responsible for the antagonism.<sup>3</sup> You must try, in most cases, to resolve workplace conflicts with an employer, or show you made efforts to seek new employment before deciding to quit a job.<sup>4</sup> You may also have just cause to leave if your working conditions are a danger to health or safety.<sup>5</sup>

[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.<sup>6</sup> It is up to the Claimant to prove this.<sup>7</sup> 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.

[12] The Claimant gave various different reasons for leaving. On his EI application, he said he left because the late shift hours caused him stress and his employer refused to change his

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<sup>1</sup> This is set out at s 30 of the *Employment Insurance Act* (EI Act).

<sup>2</sup> S 29(c)(i) of the EI Act.

<sup>3</sup> S 29(c)(x) of the EI Act.

<sup>4</sup> *Canada (Attorney General) v. Hernandez*, 2007 FCA 320.

<sup>5</sup> S 29(c)(iv) of the EI Act.

<sup>6</sup> *Canada (Attorney General) v White*, 2011 FCA 190, at para 3, and s 29(c) of the EI Act.

<sup>7</sup> *Canada (Attorney General) v White*, 2011 FCA 190, at para 3.

schedule so he could attend school.<sup>8</sup> He reported that the final event was when he took a couple of days' leave for a family emergency and the employer would not authorize those days off.<sup>9</sup> When the Commission asked him about the unauthorized days, he said this was not the reason he left. He said his employer refused to change his work schedule and he quit to take a wine specialist certification course. After quitting, he took a part-time course of study.<sup>10</sup>

[13] The employer told the Commission that the Claimant took three unauthorized days off, then wrote an email on the fourth day to say that he quit his job.<sup>11</sup>

[14] On his reconsideration request, the Claimant wrote that leaving for school was not the actual reason he quit. He said he left due to an unmanageable work environment. He did not get along with a co-worker. The late hours were "killing" him, making him sleep deprived. He made a snap decision to leave because the job affected his mental and physical health. His supervisor confronted him about drinking water and frequent washroom breaks. He said he used school as an excuse as he thought the government would see this as the most prudent reason for leaving.<sup>12</sup>

[15] On appeal, he argued that he left because the working hours were brutal and affecting him mentally. His employer would not change his hours to accommodate school, he had a disagreement with his co-workers/supervisor and was blamed for mistakes of others.<sup>13</sup>

[16] At the hearing, the Claimant testified that the real reason he left his job was that it badly affected his mental health. He said he felt targeted by supervisors who criticised small things such as drinking too much water. He explained that the work environment was hot and dusty, so he had to keep hydrated. He spoke with human resources who told him not to question management decisions. He testified he did not quit to attend school and that the minor co-worker issue did not affect his decision to leave. He left because he found the work environment and late shift hours until 2:00 a.m. were harmful to his health.

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<sup>8</sup> These statements are set out in the Claimant's EI application at GD3-10.

<sup>9</sup> The Claimant initially reported the final event that caused him to leave at GD3-14.

<sup>10</sup> The Claimant's course details are set out at GD3-17.

<sup>11</sup> The Commission's record of its discussion with the employer is set out at G3-32 to 33.

<sup>12</sup> The Claimant's request for reconsideration is at GD3-50 to 53.

<sup>13</sup> The Claimant's reasons for appeal are set out at GD2-3.

[17] The Claimant explained that he was previously reluctant to discuss his mental health issues and kept it inside. He made a rash decision to quit but had no reasonable alternatives because of his health problems. He said he tried to exhaust all reasonable alternatives by speaking to human resources about shift changes so that he could have a normal daytime shift.

[18] The Claimant testified that he saw his doctor for an unrelated medical problem before quitting but did not mention his mental health issues. He said that it was just too difficult to raise the mental health problem with anyone else.

[19] The Commission says that the Claimant did not show just cause for leaving because he had reasonable alternatives to leaving when he did. He could have filed an occupational health and safety complaint regarding dehydration issues. He could also have found a suitable new job before quitting, or consulted with his doctor for medical advice about shifts or time off.

[20] The Claimant testified in a forthright manner. I accept his testimony and find that he left his employment because he found the employer's management controls and the late shift hours extremely stressful.

[21] However, I find that the Claimant had reasonable alternatives to quitting his job. If he felt unfairly targeted by his manager, he could have tried to resolve the issue by making a formal complaint to human resources. If the workplace and hours were stressful and affecting his health, he could have consulted his doctor and asked for medical recommendations to address his mental health issues. Depending on his doctor's advice, he could have taken a sick leave if necessary, or asked the employer to accommodate him for health reasons.

[22] I appreciate that some health issues are difficult to discuss, but claimants are required to pursue all reasonable alternatives before making a decision to resign. I therefore find that the Claimant did not have just cause to voluntarily leave his employment.

**CONCLUSION**

[23] I find that the Claimant is disqualified from receiving benefits. This means that the appeal is dismissed.

Suzanne Graves

Member, General Division - Employment Insurance Section

HEARD ON:	August 7, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	L. L., Appellant