



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *S. A. v Canada Employment Insurance Commission and X*, 2019 SST 940

Tribunal File Number: GE-19-2474

BETWEEN:

**S. A.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

and

**X**

Added Party

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Josée Langlois

HEARD ON: August 19, 2019

DATE OF DECISION: August 19, 2019

## **DECISION**

[1] The appeal is allowed. I find that the Appellant voluntarily left her employment but that she had just cause to do so because of a significant modification of terms and conditions respecting wages.

## **OVERVIEW**

[2] The Appellant worked for X (X) until February 28, 2019. She stopped working because the employer refused to grant her the wage increase she had requested. On May 6, 2019, the Canada Employment Insurance Commission (Commission) gave a decision indicating to the Appellant that it could not pay her Employment Insurance benefits because she had voluntarily left her employment on February 28, 2019, and because she had reasonable alternatives to leaving. I must determine whether the Appellant voluntarily left her employment and, if so, whether she had just cause to do so.

## **ISSUES**

[3] Did the Appellant voluntarily leave her employment?

[4] If so, did she experience a significant modification of terms and conditions respecting wages?

[5] If not, did the Appellant have alternatives to leaving her employment on February 28, 2019?

### **Did the Appellant voluntarily leave her employment?**

[6] The Appellant initially told the Commission that she voluntarily left her employment on February 28, 2019, because the employer had refused to grant her the wage increase she had requested.

[7] At the hearing, the Appellant explained that she did not wish to leave her employment, but that she had used a negotiation strategy with the employer to secure the wage increase.

[8] The Appellant testified that, on January 28, 2019, she had told her immediate supervisor, X, that she was requesting a wage increase to \$18/hour. She also told him that, if her request was refused, she would leave her employment.

[9] X was present as a witness, and he confirmed that the Appellant had told him that she would leave her employment on February 28, 2019, if she did not get the requested wage increase.

[10] X explained that, as co-owner of the XX location, he had to talk about it with X, co-owner and president of the company. There was some discussion, and, on February 14, 2019, the employer told the Appellant that granting her the requested wage increase was not possible. The parties agree on this version of events. However, there are some discrepancies regarding the hiring of a new person and some statements that were allegedly made at the meeting, particularly about a possible negotiation of the Appellant's request. However, at that meeting, the employer told the Appellant that it could not grant her request, especially because of the company's financial situation and the competitive market.

[11] The evidence and the Appellant's testimony show that she wished to secure a raise because she found her wages to be unacceptable, especially because of the taxes she was responsible for on the bonuses she received. The Appellant gave the employer a certain ultimatum, and, even though she testified that she did not wish to leave her employment, that she actually wanted to keep it, and that she acted as she did to secure a wage increase that she felt she deserved, the fact remains that she told the employer on January 28, 2019, that she would leave her employment on February 28, 2019, if she did not get the requested wage increase.

[12] When interviewed at the hearing, the Appellant admitted to leaving her employment. Furthermore, the evidence shows that the Appellant announced her resignation and that the employer suggested to her that they meet to talk about it.<sup>1</sup>

[13] Although I understand the difficulties the Appellant faced and that she felt that she deserved the wage increase, by using the strategy she did, she clearly announced her resignation

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<sup>1</sup> GD3-25.

on January 28, 2019, which would be effective February 28, 2019, if she did not get the desired wage increase.

[14] The employer might have thought that the Appellant was giving it an ultimatum and, even though I understand that she was applying some pressure in order to be successful, she clearly announced her resignation to the employer on January 28, 2019. There are discrepancies in the versions of events regarding the discussions between the Appellant and the employer, but the Appellant, along with the employer, has mentioned that her request was not granted.

[15] I find that the Appellant voluntarily left her employment on February 28, 2019.

[16] Since the Appellant voluntarily left her employment, she must show that she had just cause to do so.

**Did the Appellant experience a significant modification of terms and conditions respecting wages?**

[17] The Appellant told the Commission that possible wage increases had not been agreed on when she was hired.<sup>2</sup> She also submitted before the Commission that the employer enticed her with promises of a wage increase of \$0.50 per year when she was hired and that she had not had a raise in three years.

[18] The Appellant explained that she received a raise in the form of a bonus and that those earnings had been taxable since 2017, which significantly reduced the amount she actually got in the end. She says that she has been losing money since 2017.

[19] The Appellant stated to the Commission that she had not had a wage increase for three years even though her tasks had been expanded. On January 28, 2019, she asked the employer for a raise from \$15.50/hour to \$18/hour, saying that, if it did not agree to give her that raise, she would leave her employment on February 28, 2019.

[20] She testified that, in April 2017, a significant modification to her wages occurred. At the hearing, the employer even confirmed that version of the facts. That modification to the

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<sup>2</sup> GD3-43.

Appellant's wages is not attributable to the employer, but to a Revenu Québec directive on paying bonuses to employees.

[21] The Appellant testified that that way of paying bonuses has had significant tax consequences for her in that her earnings were reduced. This is one of the reasons that the Appellant requested a wage increase.

[22] As mentioned in the section above, the employer stated that the Appellant had asked for a wage increase, but, considering the company's financial situation, giving her that raise was not possible. It explained to the Commission that no agreement on wage increases had been made when the Appellant was hired.

[23] The Commission submits that being dissatisfied with the wage rate and being denied a raise are not enough to establish just cause for leaving an employment. The Commission is of the view that the Appellant has failed to show that the employer made her a formal wage offer when she was hired. The Commission argues that, even though the Appellant was dissatisfied, she is not excused from having to look for alternative employment before quitting a job.

[24] Furthermore, the Commission states that the Appellant's tax returns actually show a wage increase between 2016 and 2018. The Appellant was paid at an hourly rate of \$15.50 for years, but she received a wage bonus that varied. The Commission argues that it is not the employer that determines the tax rate.

[25] The Commission also argues that the Appellant chose to take an advanced course on "Office." At the hearing, the Appellant confirmed that, once she left her employment, Emploi-Québec [Québec employment services] recommended that she take that course.

[26] Based on the tax documents filed with the Commission, the Appellant reported \$32,755.76 in employment income in 2017 and \$34,419.76 in 2018. Just as the Commission noted, these earnings represent an increase. However, contrary to what the Commission noted, the Appellant reported \$30,722.25 in employment income plus \$7,250 as self-employment income on her 2016 return. Therefore, her employment income decreased from 2016 to 2018 since the employer explained that the amount paid as a bonus used to be paid to employees in the

form of self-employment income. The Appellant explained that the tax rate for the bonus—that is, for reported self-employment income—is penalizing.

[27] The Appellant's versions of the facts, like the employer's, are consistent on that point, and, as the Appellant argues, the employer admits that changes associated with how bonuses are paid had the effect of reducing the Appellant's earnings.

[28] After receiving a letter from Revenu Québec, the employer met with the employees to inform them of the change that it had no choice but to implement. However, the Appellant remained frustrated with that change from 2017 to 2019, periodically asking the employer to change its practice or, as she did in January 2019, asking for a wage increase to compensate for the losses connected to the tax rate for paid bonuses. It was not until February 14, 2019, that the employer refused to grant her request and that the Appellant realized that she could not recover the loss of earnings in any other way.

[29] In that sense, and despite some inconsistencies in the evidence on file, I am of the view that there was a significant modification to the terms and conditions regarding the Appellant's wages in April 2017 and that she did not accept them; rather, she attempted through several requests made to the employer to change its practice and, in the end, she asked her employer for a wage increase as compensation for the new method of paying bonuses. The employer's ultimate response—that it refused to compensate for the loss—occurred on February 14, 2019, and the Appellant had announced on January 28, 2019, that, if she did not get the requested wage increase, she would leave her employment on February 28, 2019.

[30] I must make my decision on a balance of probabilities, and the employer and the Appellant agree that the new method of paying bonuses had significant tax consequences for the Appellant and that, for that reason, she experienced a substantial drop in income.

[31] I am of the view that the Appellant experienced a significant modification in her wages as a result of the employer's new method of paying bonuses. The employer had to comply with the Revenu Québec directive and is not responsible for the drop in earnings. The fact remains that the Appellant experienced a drop in earnings.

[32] I find that the Appellant had just cause for voluntarily leaving her employment on February 28, 2019, because she experienced a modification to terms and conditions respecting wages.

### CONCLUSION

[33] The appeal is allowed.

Josée Langlois  
Member, General Division – Employment Insurance Section

HEARD ON:	August 19, 2019
METHOD OF PROCEEDING:	In person
APPEARANCE:	S. A., Appellant  Héloïse Varin, Representative for the Appellant  X, X employer  X, witness  X, witness