



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *A. B. v Canada Employment Insurance Commission*, 2019 SST 961

Tribunal File Number: GE-19-2464

BETWEEN:

**A. B.**

Appellant/Claimant

and

**Canada Employment Insurance Commission**

Respondent

---

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

---

DECISION BY: Catherine Shaw

HEARD ON: July 31, 2019

DATE OF DECISION: August 16, 2019

## **DECISION**

[1] I am dismissing the appeal. The Claimant has not shown just cause because she had reasonable alternatives to leaving her job when she did. This means she is disqualified from receiving benefits.

## **OVERVIEW**

[2] The Claimant left her job and applied for employment insurance (EI) benefits. The Commission looked at the circumstances around the Claimant's leaving and decided she had been dismissed because of her own misconduct and so it was unable to pay her benefits. The Claimant and the employer agreed the Claimant had resigned from her job, so the Commission looked at her reasons for leaving and decided that she voluntarily left her employment without just cause. As a result, it was still unable to pay her benefits.

[3] I must decide whether the Claimant has proven that she had no reasonable alternatives for leaving her job. The Commission says that the Claimant could have addressed her work concerns with the employer, sought medical advice, or taken a medical leave rather than quitting. The Claimant disagrees and states that she was close to a mental breakdown due to issues at work and in her personal life. I find that the Claimant had reasonable alternatives to leaving her job when she did.

## **ISSUE**

[4] I must decide whether the Claimant is disqualified from being paid benefits because she voluntarily left her 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**

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

[5] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit on October 17, 2018. I see no evidence to contradict this.

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

[6] The parties do not agree that the Claimant had just cause for voluntarily leaving her job when she did.

[7] 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> 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>2</sup> It is up to the Claimant to prove this.<sup>3</sup>

[8] Having a good reason for leaving a job is not enough to prove just cause. The Claimant has to show that it is more likely than not that she had no reasonable alternatives but to leave when she did. When I decide this question, I have to look at all of the circumstances that existed at the time that the Claimant quit.

[9] The Claimant was employed at a X for almost 20 years. She says that she left her employment because she was at the point of a mental breakdown due to the stress of her work and personal life. She said that she did not have any reasonable alternatives because she felt she could not continue working in that job due to her mental health.

[10] The Claimant testified that she is diagnosed with depression and a mood disorder. She has been receiving treatment from a doctor for these conditions for the past 15 years. She takes medication and her doctor will adjust her medication levels at times, based on her condition. She took medical leave from work in 2004 and 2012 because she experienced breakdowns. She stated that she sought counseling and returned to work after both episodes. The Claimant said she had not been in counseling before she left her employment, but started shortly after she quit and it has helped her a lot.

[11] Claimant was a customer service manager. She stated that her position involved managing employees and she was involved in the dismissal of employees. She said this caused her a great deal of stress. She gave the example that she had to dismiss an employee who she had

---

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

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

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

worked beside for 16 years. She said that was really hard and she lost a personal relationship because of it. Around 2 years ago, the X started undergoing a lot of organizational changes. The X eliminated her position and made her apply for a new position. Shortly after that, the employer announced that the X was closing and that her position would be eliminated in May 2019. She said this caused her a lot of stress.

[12] The Claimant testified that, in addition to her stress at work, she had also been dealing with a stressful family situation. She said she was having issues with her children and her partner, and that her family was struggling financially.

[13] When the Claimant resigned, she also confessed to the employer that she had been stealing money over a long period of time. At the hearing, she stated that she had attributed this behaviour to her elevated stress levels due to events at work and in her personal life. She had been stealing from the employer for around 6 years before she quit, but said the stealing escalated during the past two years when her mental health began to worsen.

[14] The Claimant provided a medical note dated October 29, 2018, which stated she is advised to be off from work due to her medical condition for four months starting October 17, 2018. She provided three subsequent medical notes dated January 7, 2019, February 21, 2019, and June 18, 2019. The first note states that she was not in her right mind when she made the decision to stop working. The second note states she is cleared to return to work but in a different job than her former employment as of February 11, 2019. The third note states the Claimant is advised not to return to her former employment for current mental health reasons.

[15] I accept that the Claimant had a mental health condition based on her credible testimony regarding the mental health issues she was experiencing before she left her employment. I find the medical note dated October 29, 2018, also supports the Claimant was experiencing serious mental health symptoms to the extent that she was advised to be off work for 4 months. I have given no weight to the medical notes dated January 7, 2019, February 21, 2019 and June 18, 2019, as the notes were written at a significantly past the Claimant's last day of employment. I find the note dated October 29, 2018, was reasonably close to the Claimant's last day and is most likely to reflect her condition at the time she quit.

[16] The Commission says that the Claimant did not have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says that the Claimant could have spoken to her employer about her work issues, sought medical advice prior to leaving, or requested a medical leave.

[17] The Claimant says she did not discuss her mental health concerns with the employer because she did not want them to know that she was struggling. She also stated she felt the employer should have recognized that she was struggling with her mental health and given her assistance, despite the fact that she had not told them about her issues. I consider that it is not reasonable to expect the employer to diagnose an employee or offer accommodation and/or assistance with workplace concerns that were exacerbating her mental health condition if the employee did not advise the employer of her condition. For these reasons, I find the Claimant had the reasonable alternative to discuss her health concerns with the employer and request accommodation based on the doctor's recommendation.

[18] I also find the Claimant had the reasonable alternative to take a temporary medical leave from work, based on the doctor's recommendation in the medical note dated October 29, 2018. The Claimant stated she had previously taken medical leave from her job in 2004 and 2012, and was able to return to work after she sought counseling and her mental health improved.

[19] The Claimant testified that she did not take a medical leave in October 2018, because she did not want to go back to work at the employer. She said that she could have stayed until her position was eliminated in May 2019, but she could not function in that environment any longer than that. Based on the circumstances presented by the Claimant, I find she had the reasonable alternative to take medical leave as recommended by her doctor. Her past experiences taking medical leave and seeing a counsellor were beneficial and allowed her to return to work in both cases. She has not provided a convincing reason why she could not have taken medical leave in this instance, especially since her doctor recommended a temporary leave around the time that she quit.

[20] The Claimant has an obligation, in most cases, to attempt to resolve workplace conflicts with an employer, or to demonstrate efforts to seek alternative employment before taking a

unilateral decision to quit a job.<sup>4</sup> At the hearing, the Claimant said that she did not try to find other employment before she left her job because she found it was a struggle to just get through her days. She said she felt that she could not continue in this type of work because managing people and handling dismissals were a source of her stress.

[21] I recognize that the Claimant experienced stress at work and that this exacerbated her existing mental health condition. She acknowledged that she made the bad choice to steal from the employer, which she said was a reaction to her personal and professional stress. She said stealing made her feel even sicker and added to her stress, as well. However, the Claimant's testimony and submissions indicates she had experienced this mounting stress over the past 2 years. Given the period of time in which the Claimant experienced stressful working conditions, I find it would have been reasonable for the Claimant to look for other work before she made the decision to quit her job.

## CONCLUSION

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

Catherine Shaw  
Member, General Division - Employment Insurance Section

HEARD ON:	July 31, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	A. B., Appellant/Claimant

---

<sup>4</sup> *Canada (Attorney General) v. White*, 2011 FCA 190