



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *P. P. v Canada Employment Insurance Commission*, 2019 SST 1519

Tribunal File Number: GE-19-2682

BETWEEN:

P. P.

Appellant / Claimant

and

Canada Employment Insurance Commission

Respondent / Commission

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Raelene R. Thomas

HEARD ON: August 23, 2019

DATE OF DECISION: August 30, 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 employment insurance (EI) benefits.

OVERVIEW

[2] The Claimant was working as a forklift operator when he left his job, moved to a new home in another city and applied for 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 made a personal decision when he decided to leave his job and move to a new city because that put him in the position of being unemployed. The Commission says the Claimant could have looked for and secured new employment in the new area before quitting and moving. The Claimant disagrees and states that he moved to save money, he did look for work, his request for a transfer could not be granted and he and his wife decided to move because one of his children intended to attend university in the area and that child cannot live alone.

[4] I find that Claimant did leave his job but that he had no reasonable alternatives available to him.

ISSUE

[5] 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

[6] I accept that the Claimant voluntarily left his job. The Claimant testified that he told his employer that he was resigning and that he stopped working on March 28, 2019. I see no evidence to contradict this.

[7] The law says that you are disqualified from receiving EI 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.

[8] 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 alternatives but to leave his job 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 left his job.

[9] The Commission says the Claimant made a personal decision when he decided to leave his employment and move to “X” as this put him a position of being unemployed. The Commission says it concluded that the Claimant did not have just cause for voluntarily leaving his employment because he failed to exhaust all reasonable alternatives prior to leaving. The Commission says considering all the evidence a reasonable alternative to leaving would have been to seek and secure new employment in the new area before quitting and relocating.

[10] The Commission noted that the Claimant’s wife was laid off as of March 30, 2019 and that she continued to live with their son in “X” and it said “it was considered that he himself was not required to relocate but rather, it would have been his wife that would have relocated to re-join him.”

[11] The Claimant testified that in February 2018 he and his wife bought a house in the city of “X” that was under construction. They sold their house in the city of “X” in November 2018 before the house in “X” was finished. While they were waiting for the house in “X” to be

¹ *Employment Insurance Act*, section 30

² *Employment Insurance Act*, section 30; and, *Canada (Attorney General) v White*, 2011 FCA 190. This is how I identify the court cases that contain principles which the law requires me to apply to decide the issues in this appeal

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

finished the Claimant, his wife, son and daughter moved in with their other son and that son's wife. From November 2018 the family lived in the city of "X" and he continued to work with his employer while he lived with his son. He relied on friends and co-workers to carpool from his son's house to work.

[12] The Claimant said the house in "X" was finished at the end of March 2019 and he left his job to move to "X." Part of the reason for moving from "X" to "X" was that it was cheaper to live in "X." The other part of the reason was that his 19-year-old daughter had been accepted to attend university in a city near "X." The Claimant explained his daughter had been in a very bad car accident in 2017. Her injuries meant that she could not walk for a period of time and although she is now able to walk she does not walk well and is still not able to live on her own. The Claimant's daughter would not be able to commute from "X" or "X" to attend the university near "X." The Claimant explained that his daughter had completed two years of college and found out, after the house in "X" was purchased that the university she intended to attend would not give credit for those two years. In September the Claimant's daughter will live with her brother and continue her education.

[13] The Claimant explained that both he and his wife moved from their son's house to the new house in "X" at the end of March 2019. He did not work for his employer after the move. Due to some medical issues in the son's family the Claimant's wife continued to live with and provide support to their son and his family. He said that he and his wife have one car and that it is too far to drive from "X" to his former place of work and that it would take four and one-half hours to go by bus.

[14] The Claimant testified that he is a forklift operator in a warehouse for a retailer. He does not have any computer skills. He stated that before he left his job he talked to a supervisor about transferring. He was told his employer did not have a warehouse in "X." The employer has a small retail store in "X" but because he does not have computer skills he cannot work in the store. The Claimant said that before he left work he visited "X" on the weekends to see if he could get work. He spoke to some people at stores telling them he was looking for work and most would tell him to apply on line. A family member installed the "Indeed" web site on his phone some time before he stopped working and he used that to search for work on-line. He

applied for some jobs on-line before he left work. He had a friend who was living and working in “X” who said he would help him get a job. Unfortunately, the friend got laid off prior the Claimant moved to “X.”

[15] The Claimant was assisted by a family member when he filled out his application for EI benefits. The Claimant indicated on the application form that he had quit work to accompany his spouse to a new residence and that his spouse had moved to be closer to a family member or member. The medical issues experienced within their son’s family could not be foreseen and arose prior to the move to “X” and continued for some time after. The Claimant was clear that he and his wife both moved to “X” and that she remained with her son’s family only to provide support. The Claimant and his spouse considered their child’s plans to attend university near “X” and also the expense of living in “X.” In view of the Claimant’s testimony concerning his child’s acceptance to a university near “X” and that child’s inability to live alone due to injuries from a car accident I find that it is reasonable for the Claimant and his wife to want to accompany their child to the new location. However, this is not enough for the Claimant to establish just cause for leaving his job. To establish that he had just cause for leaving his job when he did, the Claimant must show that he had no reasonable alternatives to leaving his employment when he did.

[16] A claimant has an obligation, in most cases, to demonstrate efforts to seek alternative employment before taking a unilateral decision to quit a job.⁴

[17] Having regards to all the circumstances, I find that, on a balance of probabilities, the Claimant exhausted the reasonable alternative of seeking other employment because the Claimant testified about the efforts he made to look for work before he left his job as a forklift operator. These efforts included asking his employer for a transfer, visiting “X” and speaking to people in stores about available work, preparing a resume, accessing the Indeed online job website, applying for jobs on line and speaking to a friend about getting work at the friend’s workplace. Accordingly, I find the Claimant’s decision to leave his employment meets the test

⁴ *Canada (Attorney General) v White*, 2011 FCA 190

of having just cause to voluntarily leave employment as required by the *Employment Insurance Act* and the case law described above.

CONCLUSION

[18] I find that the Claimant is not disqualified from receiving EI benefits. This means the appeal is allowed.

Raelene R. Thomas
Member, General Division - Employment Insurance Section

HEARD ON:	August 23, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	P. P., Appellant