



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *D. H. v Canada Employment Insurance Commission*, 2019 SST 912

Tribunal File Number: AD-19-239

BETWEEN:

**D. H.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Valerie Hazlett Parker

DATE OF DECISION: August 28, 2019

## DECISION AND REASONS

### DECISION

[1] The appeal is dismissed.

### OVERVIEW

[2] D. H. (Claimant) was employed as a co-ordinator for an organization that provides home care. She left this employment to pursue education in nursing. The Claimant applied for regular Employment Insurance benefits (EI). The Canada Employment Insurance Commission refused the application because it decided that the Claimant had voluntarily left her employment without just cause under the *Employment Insurance Act*.

[3] The Claimant appealed this decision to the Tribunal. The Tribunal's General Division dismissed the appeal for the same reason. I granted leave to appeal the General Division decision to the Tribunal's Appeal Division on the basis that the General Division may have erred in law by requiring that the Claimant obtain an authorization to quit before she left work. However, after considering the parties' written submissions and oral arguments at the hearing, I am satisfied that the General Division did not make this error in law. The appeal is therefore dismissed.

### ISSUE

[4] Did the General Division make an error in law by requiring that the Claimant obtain an authorization to quit before she left work to attend school?

### ANALYSIS

[5] The *Department of Employment and Social Development Act* (DESD Act) governs the Tribunal's operation. It provides rules for appeals to the Appeal Division. An appeal is not a re-hearing of the original claim, but a determination of whether the General Division made an error under the DESD Act. The Act also states that there are only three kinds of errors that can be considered. They are that the General Division failed to observe a principle of natural justice, made an error in law, or based its decision on an erroneous finding of fact made in a

perverse or capricious manner or without regard for the material before it.<sup>1</sup> Only if at least one of these errors was made, can the Appeal Division intervene.

[6] The *Employment Insurance Act* provides that a claimant is disqualified from receiving EI if they voluntarily left their employment without just cause.<sup>2</sup> The General Division decision correctly states that for a claimant to have just cause they must show that, having regard to all of the circumstances, they had no reasonable alternative to leaving their employment.<sup>3</sup>

[7] The Claimant argues that the General Division made an error in law because it based its decision on the fact that she did not obtain a written authorization to quit before she left work, and that this is not required. However, the General Division states that neither the *Employment Insurance Act* nor the Regulations require an authorization to quit to establish just cause when a claimant leaves work to pursue studies.<sup>4</sup> This is but one circumstance to be considered in the overall assessment of whether the claimant has just cause to leave her employment.<sup>5</sup>

[8] The General Division considered the Claimant's circumstances, including that the funding for her position was changed to funds raised by the organization,<sup>6</sup> that she had personal reasons to pursue nursing,<sup>7</sup> that she spoke with someone from FastForward before she left work but did not receive their authorization until after she left,<sup>8</sup> that she applied for a leave of absence but this was not given to her, and that she tried to work on an on-call basis while at school.<sup>9</sup>

[9] The General Division decision also states that the Federal Court of Appeal instructs that leaving a job to return to school is not just cause to quit under the *Employment Insurance Act*, even when the decision to do so is motivated by the claimant's desire to improve their situation in the marketplace.<sup>10</sup> This is a correct statement of the law, and the General Division applied this to the facts before it to make its decision.

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<sup>1</sup> DESD Act s. 58(1)

<sup>2</sup> *Employment Insurance Act* s. 29, 30

<sup>3</sup> General Division decision at para. 11

<sup>4</sup> *Ibid.* at para. 17

<sup>5</sup> *Ibid.* at para. 18

<sup>6</sup> *Ibid.* at para. 13

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.* at para. 20

<sup>9</sup> *Ibid.* at para. 24

<sup>10</sup> *Ibid.*

[10] Although the General Division decision considered that the Claimant did not have an authorization to quit document, it did not base its decision solely on the absence of this document. The General Division considered all of the Claimant's circumstances. Therefore, it made no error in law.

[11] I have also reviewed the written record. The General Division did not overlook or misconstrue any important information.

**CONCLUSION**

[12] The appeal is therefore dismissed.

Valerie Hazlett Parker  
Member, Appeal Division

HEARD ON:	August 21, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	D. H., Appellant  Rachel Paquette, Representative for the Respondent