



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *M. M. v Canada Employment Insurance Commission*, 2019 SST 833

Tribunal File Number: AD-19-363

BETWEEN:

M. M.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION

Appeal Division

DECISION BY: Jude Samson

DATE OF DECISION: September 3, 2019

DECISION AND REASONS

DECISION

[1] The appeal is allowed.

OVERVIEW

[2] M. M. is the Claimant in this case. She was living and working in New Brunswick when an agent from the New Brunswick Employment Insurance (NB-EI) Connect Program referred her to a course in Ontario. As a result, she quit her job in New Brunswick, and understood that she would be eligible for Employment Insurance (EI) benefits while she was taking her course.

[3] However, the Canada Employment Insurance Commission said that the Claimant should have obtained an “authorization to quit” before quitting her job in New Brunswick. Since the Claimant had no such authorization, the Commission concluded that she had voluntarily left her job without just cause, and disqualified her from receiving EI benefits.¹

[4] The Claimant then challenged the Commission’s decision to the Tribunal’s General Division, but it dismissed her appeal. The Claimant is now challenging the General Division decision to the Tribunal’s Appeal Division, and I have already granted leave to appeal in her case.

[5] However, the Commission is now conceding the appeal. This effectively settles the dispute between the parties.² More specifically, the Commission recommends that I allow the appeal and remove the disqualification that it imposed against the Claimant. I agree. These are the reasons for my decision.

ANALYSIS

[6] The critical question the General Division had to decide in this case was whether, on the balance of probabilities, the Claimant had no reasonable alternative to leaving her job. When

¹ In this context, “just cause” has a very specific meaning. It is defined in section 29(c) of the *Employment Insurance Act* (EI Act). Section 30 of the EI Act establishes the Commission’s powers to disqualify claimants from receiving EI benefits.

² AD2.

answering this question, the General Division had to consider all of the relevant circumstances, including those listed under section 29(c) of the *Employment Insurance Act* (EI Act).

[7] In reaching its decision, the General Division followed a line of binding decisions in which the courts concluded that leaving a job to return to school does not normally amount to just cause within the meaning of the EI Act.³

[8] The Commission maintains that, even when a person is referred to a course under section 25 of the EI Act, the referral does not automatically provide the person with just cause for leaving their employment. Instead, the referral is just one of many factors to be considered when assessing just cause. In this respect, the Commission agrees with the General Division decision.

[9] However, the Commission now accepts that the General Division overlooked or misapprehended the following parts of the evidence:

- a) information and directions concerning the NB-EI Connect Program were given to the Claimant by an employment counselor in an official context, and with specific knowledge of the Claimant's situation;
- b) before quitting her job, the Claimant received unambiguous assurance from her employment counselor at the NB-EI Connect Program that she was authorized to participate in the training program;
- c) despite knowing that the Claimant was planning to quit her job, which would have been obvious since the course she planned to attend was in a different province, the Claimant's employment counselor never informed the Claimant that it could impact her entitlement to EI benefits; and
- d) given that the Claimant was working at a casual part-time job and given that nobody from the NB-EI Connect Program advised her otherwise, it was reasonable for the

³ General Division decision at para 21.

Claimant to believe that she could quit her job to take a course aimed at improving her employment prospects, all while maintaining her entitlement to EI benefits.

[10] The Commission also accepts that, when these circumstances are considered, the Claimant had no reasonable alternative but to quit her job and follow the approved training program.

[11] As a result, the Commission recommends that I intervene in this case, give the decision that the General Division should have given, and remove the disqualification that the Commission had imposed against the Claimant.⁴

[12] I accept the Commission's recommendation.

CONCLUSION

[13] The appeal is allowed and the disqualification that the Commission had imposed against the Claimant is removed.

Jude Samson
Member, Appeal Division

METHOD OF PROCEEDING:	On the record
REPRESENTATIVES:	M. M., Appellant Angèle Fricker, Representative for the Respondent

⁴ The Commission's recommendation is based on sections 58(1)(c) and 59(1) of the *Department of Employment and Social Development Act*. Section 58(1)(c) allows me to intervene in a case when the General Division bases its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it. And section 59(1) gives me the power to give the decision that the General Division should have given.