



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *J. W. v Canada Employment Insurance Commission*, 2019 SST 1068

Tribunal File Number: GE-19-2860

BETWEEN:

**J. W.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

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

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DECISION BY: Christianna Scott

HEARD ON: September 10, 2019

DATE OF DECISION: September 12, 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 qualifies to receive benefits.

## **OVERVIEW**

[2] The Claimant left his job at X and applied for employment insurance (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 could have spoken sooner to the human resources department to discuss the problems that he was having with his manager in the forklift position or he should have returned to his job as a doffer. The Claimant disagrees and states that he had to leave his job. The Claimant argues that the supervisor in charge of the forklift position targeted him and he was unfairly returned to his previous job as a doffer. The Claimant argues that he could not continue working as a doffer because he felt betrayed by the Company for upholding the demotion and condoning the poor treatment that he had received from his supervisor.

## **ISSUE**

[4] 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**

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

[5] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit. 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 his job when he 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> 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.<sup>2</sup> It is up to the Claimant to prove this.<sup>3</sup> The Claimant has to show that it is more likely than not that he had no reasonable alternatives but to leave when he did. When I decide this question, I have to look at all of the circumstances that existed at the time the Claimant quit.

[9] The Claimant says that he left his employment because he could not continue to work for a company that condoned the hostile treatment that he received from the forklift supervisor. The Claimant testified that he worked for the Company for 23 years as a doffer. In 2014, he trained to become a forklift operator so that he could apply for the position when there was a vacancy. In September 2018, the Claimant applied for a position as a forklift operator and was selected for the job. This new position was contingent upon passing a 90-day probationary period. The Claimant stated that a few days after starting in the forklift position a new supervisor replaced his supervisor. He stated that the new supervisor was unsupportive and targeted him by; falsely accusing him of damaging a vehicle, giving him a poor performance review after 8 days on the job, critiquing his vacation selection, giving him unwarranted verbal counsels, removing his trainer, requiring him to work alone even though two people were supposed to man the machines, failing to respond to his requests for workplace guidance and tools and forcing him to use equipment that he had not been trained on.

[10] The Claimant testified that he was set up to fail and was mistreated by his supervisor. He testified that the supervisor used a demeaning and belittling tone when they interacted, refused to

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<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.

listen to any explanations the Claimant provided and refused to give him the support he asked for.

[11] The Claimant testified that after he was told by his supervisor that he failed the probationary period, the Claimant spoke to the human resources department about the mistreatment that he had experienced and the lack of support. The Claimant asked the human resources department to intervene to address the situation with the manager and give him an opportunity to return to the forklift position. At the very least, the Claimant asked that the human resources department restore his clean employee record. The human resources department considered his request but ultimately decided to demote him to his old position as a doffer. No other solutions were offered.

[12] The Claimant argues that he had no reasonable alternatives to leaving at that time because he tried to speak to his supervisor but the supervisor was unresponsive to his requests for support and ignored the Claimant's feedback. The Claimant argues that when the human resources department failed to intervene on his behalf and address the mistreatment that he had suffered, he had no choice but to leave the company.

[13] The Commission says that the Claimant did not have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Claimant could have spoken the human resources department sooner about the troubles he was experiencing with his supervisor. The Commission also argues that the Claimant could have returned to the doffer position until he had secured other employment. The Commission also argues that the Claimant could have contacted an outside agency.

[14] I find that the Claimant has proven that he left because of the antagonism that he received from his supervisor and the Company's failure to properly address the situation.

[15] The Claimant provided sincere and compelling testimony about the treatment that he received during the 90-day probationary period. He described the supervisor's conduct towards him as being hostile from the outset. The Claimant provided multiple examples of situations where he was asked to perform tasks without the basic support and training to be able to meet the expectations. The Claimant also described incidents where he was falsely accused of having

broken equipment or faulted for not following processes when more experienced workers were not faulted for having made similar mistakes.

[16] I prefer the Claimant's account and characterization of the events during the probationary period to those of the employer representatives. The Claimant's account was detailed and showed a pattern of the Claimant being placed by his supervisor in situations where he could not succeed. However, the Commission simply relied upon the general statements from the employer's representatives that the Claimant was slow, was not suited to the position and was provided with the same training as others. There was little specific evidence from the Commission to show that the Claimant was supported in this new role or that the supervisor was treating him in an equitable manner. The Claimant however, provided specific examples that showed a lack of coaching, inadequate training and disregard from his supervisor.

[17] I therefore find that the evidence raises an irresistible inference that the new supervisor's conduct went beyond standard performance management and amounted to antagonism.

[18] I find that the Claimant explored all reasonable alternatives available to him.

[19] The Commission argued that the Claimant should have gone to see the human resources manager earlier and that this amounted to a failure to explore all reasonable alternatives. When I asked the Claimant during the hearing why he did not speak to the human resources manager after the performance review that was conducted shortly after he started, the Claimant testified that he was concerned that escalating these issues so early in his training would make the supervisor further target him. He testified that the supervisor had an aggressive personality and he said that he did not want to rock the boat.

[20] I accept the Claimant's explanation of why he did not feel it was a reasonable alternative to seek the help of the human resources department early in his probationary period. Moreover, given the lack of responsiveness from the human resources department when the Claimant did eventually raise his concerns with them, I fail to see how bringing the issues to the human resources department earlier would have changed the Claimant's situation for the better.

[21] The Commission also argued that a reasonable alternative for the Claimant would have been to stay and work in the doffer position until he found work elsewhere.

[22] The Claimant acknowledged that he could physically perform the doffer position for a short period. However, the Claimant testified that the doffer position paid less than the forklift position and the working conditions were less desirable. The Claimant also testified that he could not return to work, even in the doffer position because he felt betrayed by the Company. The Claimant said that he had raised valid concerns with the human resources department about how he was set up to fail and those concerns were not legitimately investigated or addressed. He testified that he was devastated about the events and left the workplace with a heavy heart, leaving behind colleagues and good benefits. However, he felt that he could not return to the workplace. He testified about his past work experience with multiple supervisors and stated that this was the first time he had encountered antagonism from a supervisor. He felt abused by the situation and testified that the stress of the situation made him tearful when he went into the workplace to speak with the human resources manager.

[23] The Commission also argued that a reasonable alternative was for the Claimant to escalate his concerns with an outside agency.

[24] I do not consider that going to an outside agency was a reasonable alternative, as seeking help from the outside would not have addressed, in the short term, the antagonism that the Claimant was facing or changed the workplace dynamics.

[25] I accept the Claimant's explanation that leaving the job was the only reasonable alternative in the circumstances. I have considered the Claimant's antagonism with his supervisor, the supervisor's failure to respond to his requests for assistance, the increased stress associated with working without adequate support, the response of the human resources department, the change in working conditions associated with the doffer position and the lack of trust in his employer after 23 years of service. Having considered all of the circumstances, I find his decision to quit was not a personal choice. The Claimant was so fundamentally troubled that after 23 years of service, the Company was unresponsive to his requests for support and condoned the conduct of this new supervisor.

[26] Given all of these circumstances, the Claimant had no reasonable alternative but to leave his employment.

**CONCLUSION**

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

Christianna Scott  
Member, General Division - Employment Insurance Section

HEARD ON:	September 10, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	J. W., Appellant