



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *G. Y. v Canada Employment Insurance Commission*, 2019 SST 1420

Tribunal File Number: GE-19-3524

BETWEEN:

G. Y.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Glen Johnson

HEARD ON: November 14, 2019

DATE OF DECISION: November 14, 2019

DECISION

[1] The appeal is dismissed. This means he is disqualified from receiving employment insurance (EI) benefits and there is an overpayment of benefits. The Claimant has not shown just cause for quitting his employment. He had reasonable alternatives to leaving his job when he did.

OVERVIEW

[2] The Claimant left his part-time job as a janitor after 2 shifts and applied for regular benefits. In his application, he told the Commission the reason he left his job was shortage of work. He was paid benefits.

[3] Later, the Commission reviewed his case. The Claimant's employer told them that he quit his job after 2 shifts without giving reasons. The Claimant told the Commission that he quit the part-time job because he wanted to find full-time work. He said he told his employer to stop giving him work shifts.

[4] On appeal, he claims that he did not quit his job. In his Notice of Appeal he says he does not know why his part-time job employer did not call him to come back to work after working 2 shifts. In testimony, the Claimant admits that he told his employer not to give him work shifts after working 2 shifts, but because he was on-call there is no guarantee he would get more shifts.

[5] The Commission decided that he voluntarily left his employment without just cause and he is disqualified from getting EI benefits and he needs to payback the benefits he was paid.

[6] I must decide whether the Claimant has proven that he had no reasonable alternatives to leaving his job. The Commission says that the Claimant could have continued working until he found another job with full-time hours before deciding to quit.

ISSUE

[7] 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 a dispute that the Claimant voluntarily left his job

[8] I find that the Claimant voluntarily left his job. The Claimant told the Commission that he quit his job. He told them he quit on his application and when they did a case review.

[9] I do not accept his claim in this appeal that he did not quit his part-time job and his claim with his appeal that he does not know why his part-time job employer did not call him to return to work after 2 shifts.

[10] I find that the reasons he gave to the Commission for leaving his job are believable. They were the first reasons he gave for leaving his employment.

[11] He told them that he quit his part-time job after 2 shifts because he wanted to find full-time work. He also told them that he thought janitorial work was not a good fit for his skill level. He admitted, in testimony, that he needed to find fulltime work and he felt that his skill level was above doing janitorial work.

[12] It makes sense to me that he quit his part-time job, as he told the Commission. He told them that he asked his employer not to give him more shifts. He said that after trying out the job for 2 shifts, the job was not a good fit for him. His employer told the Commission that he quit his job and he did not give them reasons for leaving. They made a Record of Employment (ROE) saying that the reason he left work was "*quit*".

[13] The Claimant testified that he does not agree with his employer's stated reason for stopping work. He says he did not quit. However, he admits that his employer did not ask him to leave his job. He admits that he did not ask his employer to fix the ROE.

[14] When deciding if the Claimant voluntarily left his job the question is: did the employee have a choice to stay or leave (*Canada (Attorney General) v. Peace*, 2004 FCA 56)? I find that he decided to leave his employment.

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

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

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

[17] 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 she 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 that the Claimant quit.

[18] The Claimant quit his part-time job after 2 shifts because he wanted to find full-time work and he thought janitorial work was not a good fit for his skill level.

[19] He claims that he had just cause for leaving his job because he wanted, and he financially needed, to find full-time work. However, he admits that he did not get a new job offer before he left his job. He testified that he had a "potential" job, but he did not

¹ This is set out at s 30 of the *Employment Insurance Act*.

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

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

have reasonable assurances of a new job in the immediate future (subsection 29(c), *Employment Insurance Act*).

[20] He says that he called a company about full-time work 3 weeks after he left his part-time job and they told him they would call him about work in a week, but they did not call. He admits that he did not get a job offer before he left his part-time job.

[21] The Commission says that the Claimant did not have just cause. He had reasonable alternatives to leaving when he did, such as continuing work at his part-time job until he found a new job with full-time work hours.

[22] I find that:

- The Claimant voluntarily left his part-time janitorial job;
- He thought that he had good reason to leave his job after 2 shifts because he wanted, and financially needed, to find full-time work and he thought janitorial work was not a good fit for his skill level;
- However, it is not reasonable for the Claimant to ask others to bear the burden of his employment when he leaves an employment without just cause when he had reasonable alternatives to leaving, having regard to all the circumstances;
- Leaving his job when he was not happy with the type of work or the hours of employment per week may be good reasons, but the reasons are not the same as just cause to leave. His personal reasons to leave in this case does not amount to just cause to leave;
- He had reasonable alternatives to leaving his job. He did not get other suitable work before deciding to quit.

CONCLUSION

[23] The appeal is dismissed. This means that the Claimant is disqualified from getting benefits and he must repay benefits that he was paid on this claim.

Glen J. Johnson

Member, General Division - Employment Insurance Section

HEARD ON:	November 14, 2019
METHOD OF PROCEEDING:	Videoconference
APPEARANCES:	G. Y., Claimant