



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *M. G. v Canada Employment Insurance Commission*, 2019 SST 1546

Tribunal File Number: GE-19-3382  
GE-19-3383

BETWEEN:

**M. G.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

---

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

---

DECISION BY: Catherine Frenette

HEARD ON: November 28, 2019

DATE OF DECISION: December 5, 2019

## **DECISION**

*GE-19-3382*

[1] The appeal is allowed. The Appellant had just cause for leaving his employment because he had no reasonable alternative to leaving, given the circumstances.

*GE-19-3383*

[2] The appeal is allowed. The Appellant did not refuse an offer of suitable employment. The Appellant is not disqualified from receiving benefits.

## **OVERVIEW**

[3] The Appellant made an initial claim for regular benefits on December 9, 2018.

[4] The Appellant worked for the employer as a cook in a retirement home from April 20, 2019, to May 26, 2019.

[5] The Appellant left that employment because, among other reasons, he did not get along with his co-workers. Furthermore, the hostile work environment was all the more difficult for the Appellant because he had post-traumatic stress disorder and difficulty managing his emotions in stressful situations.

[6] Also, before he left, the Appellant had an interview with the head chef, B., for another employer, X.

[7] On June 1, 2019, the Appellant worked for that establishment. The evidence of whether the Appellant was hired during that shift is inconsistent. The Appellant believes that the employer offered him a job, while the employer said that it did not offer him a job.

[8] On June 1, 2019, the Appellant also learned that Chef B. had left his employment and ended on June 7, 2019. When he left for a new employer, Chef B. contacted the Appellant to make him an offer, which the Appellant turned down.

[9] The Canada Employment Insurance Commission<sup>1</sup> disqualified the Appellant from receiving benefits effective May 26, 2019, because it found that he had voluntarily left his employment without just cause.

[10] The Commission also imposed a nine-week disqualification on the Appellant for turning down a suitable employment on June 9, 2019.

[11] The Appellant argued that he had just cause for leaving his employment because he had reasonable assurance of another employment for X. Furthermore, the Appellant is of the view that Chef B. from X did not make him an offer of employment and that he had good cause for refusing his offer anyway.

## **ISSUES**

*GE-19-3382*

[12] Did the Appellant have reasonable assurance of another employment in the immediate future?

[13] Did the Appellant have just cause for leaving his employment?

*GE-19-3383*

[14] Should the Appellant be disqualified from receiving benefits for nine weeks for turning down a suitable employment on June 9, 2019, without just cause?

## **ANALYSIS**

[15] A claimant is disqualified from receiving any benefits if they voluntarily left an employment without just cause.<sup>2</sup>

[16] A person has just cause for leaving their employment if, having regard to all the circumstances, including those listed in section 29(c) of the Act, there were no reasonable

---

<sup>1</sup> Hereafter “Commission.”

<sup>2</sup> *Employment Insurance Act* (Act), ss 29 and 30.

alternatives to leaving.<sup>3</sup> Therefore, the claimant must not have [translation] “other reasonable alternatives to leaving their employment.”<sup>4</sup>

[17] The claimant is responsible for proving, on a balance of probabilities, that they had just cause for leaving.<sup>5</sup>

**Did the Appellant have reasonable assurance of another employment in the immediate future?**

[18] A person may have just cause for leaving their employment if they had reasonable assurance of another employment in the immediate future.<sup>6</sup>

[19] The expression “reasonable assurance” implies a measurable form of guarantee. In fact, the very definition of assurance implies a pledge or guarantee of something.<sup>7</sup> By combining assurance with the notion of reasonable, Parliament has softened the test, making it less formal.<sup>8</sup>

[20] More specifically, to have reasonable assurance of obtaining another employment in the immediate future, a claimant must know what the potential employment is and the identity of their future employer.<sup>9</sup>

[21] The Tribunal is of the view that the Appellant had reasonable assurance of another employment in the immediate future when he left.

[22] First of all, when he left the retirement home, the Appellant knew the potential employer, X, and the potential employment, as a cook.<sup>10</sup>

[23] Then, the Appellant had several telephone conversations with Chef B. before leaving the retirement home. On May 10, 2019, the head chef at X contacted the Appellant because he had looked at his resume on the Emploi-Québec website [Québec’s employment website]. Chef B.

---

<sup>3</sup> *Green v Canada (Attorney General)*, 2012 FCA 313.

<sup>4</sup> *Astronomo v Canada (Attorney General)*, A-141-97.

<sup>5</sup> *Chaoui v Canada (Attorney General)*, 2005 FCA 66; *Canada (Attorney General) v White*, 2011 FCA 190.

<sup>6</sup> Act, s 29(c)(vi).

<sup>7</sup> *Canada (Attorney General) v Sacrey*, 2003 FCA 377.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Canada (Attorney General) v Imran*, 2008 FCA 17.

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

called the Appellant back on May 14, 2019. On May 18, 2019, the Appellant had an interview, in which the chef promised him 40 hours a week and good working conditions. Chef B. told the Commission that he had offered the Appellant a job. At that time, the Appellant asked him for some time to think about it. The Appellant testified that he still wanted to try the job at the retirement home because his employer had told him it was going to dismiss a problematic employee.

[24] When the Appellant realized that the situation at the retirement home was not going to improve, he left his employment to accept Chef B.'s offer.

[25] It is clear from the Appellant's and Chef B.'s statements that Chef B. had offered the Appellant a job on May 18, 2019.

[26] The Commission is of the view that the Appellant did not have reasonable assurance of another employment in the immediate future because he did not have an actual employment, but rather a simple trial.

[27] Contrary to the Commission's claims, the Tribunal finds that whether the employer hired the Appellant on June 1, 2019, is not determinative in this file because it must examine the facts on May 26, 2019. At that time, the Appellant was still under the impression that he had a job at X because of Chef B.'s offer. In the end, X did not hire the Appellant because Chef B. had resigned, and X was waiting for the new head chef to begin before hiring employees.

[28] Moreover, the Appellant did not need to have absolute certainty of another employment, but a reasonable assurance of one.<sup>11</sup> The Tribunal finds that the Appellant's assurance that he had a job at X was reasonable because the head chef had assured him a position and hours of work.

[29] The Tribunal will consider this circumstance in its analysis of the only reasonable alternative.

---

<sup>11</sup> *Sacrey, supra* note 7.

**Did the Appellant have just cause for leaving his employment?**

[30] The Tribunal is of the view that the Appellant showed, on the balance of probabilities, that he had just cause for leaving his employment because he had no reasonable alternative to leaving, given the circumstances.<sup>12</sup>

[31] First, the Tribunal is of the view that it was not reasonable for the Appellant to continue working for the retirement home considering his health condition.

[32] The Commission is of the view that the Appellant did not have just cause for leaving his employment because simply having conflict and animosity at work is not just cause for leaving employment. According to the Commission, the Appellant did not show that the employment was harmful to his health. Still according to the Commission, a reasonable alternative would have been to make sure he had another permanent full-time employment before leaving his employment.

[33] The Tribunal is of the view that the Appellant showed that the employment was harmful to his health. The Appellant explained that, before, he was a police officer in X and that he had post-traumatic stress disorder. According to the Appellant, he could no longer take the pressure at work.

[34] The Appellant explained that in his employment at the retirement home, he had issues with several employees, including one in particular. The Appellant explained that when he was hired, he knew the other employees because he had gone to high school with them. Back then, the Appellant did not get along well with them. The Appellant explained that there had been a lot of gossiping.

[35] More specifically, on May 26, 2019, the Appellant explained that an employee refused to complete her work duties. The Appellant spoke to the charge nurse about it, and she recommended that he not return to work after dinner. That is what the Appellant did.

---

<sup>12</sup> *Green, supra* note 3; *Astronomo, supra* note 4.

[36] The Appellant testified that when he is in a stressful situation, he starts to shake, he isolates himself, and he does not know what to do anymore. If the stress does not go away, the Appellant can lose control and behave aggressively. The Appellant testified that on his last day of work at the retirement home, he started shaking. According to the Appellant, he had to leave his employment because he did not want the situation to escalate and to commit reprehensible acts. The Appellant explained to the Tribunal that he had already been in circumstances where he had lost control and he did not want that to happen again.

[37] The Appellant preferred to leave his employment before the situation escalated and he became aggressive towards another employer or towards the residents at the home.

[38] The Tribunal accepts the Appellant's testimony because it is credible, likely, and plausible. Considering his mental health condition, it would not have been reasonable to require the Appellant to continue working for that employer.

[39] Second, it was not reasonable to require the Appellant to continue working while waiting to find another employment because he had reasonable assurance of another employment in the immediate future.

[40] The Tribunal finds that the Appellant met his onus to prove that he had just cause for leaving his employment because he had no reasonable alternative to leaving, given the circumstances.<sup>13</sup>

[41] The appeal is allowed on this issue.

**Should the Appellant be disqualified from receiving benefits for nine weeks for refusing a suitable employment on June 9, 2019, without good cause?**

[42] A claimant is disqualified from receiving benefits if, without good cause since the interruption of earnings giving rise to the claim, the claimant has not taken advantage of an opportunity for suitable employment.<sup>14</sup> In this case, the Commission determines the duration of

---

<sup>13</sup> *Astronomo*, *supra* note 4; *Green*, *supra* note 3; *Chaoui*, *supra* note 5; *White*, *supra* note 5.

<sup>14</sup> Act, s 27(1)(a).

disqualification, but the number of weeks of disqualification must be between seven and twelve.<sup>15</sup>

[43] To determine whether the Appellant should be disqualified from receiving benefits, the Tribunal must ask the following questions:

- 1) Did the Appellant refuse an offer of employment?
- 2) If so, was that employment suitable?
- 3) If so, did the Appellant have good cause for refusing that employment?
- 4) If not, did the Commission exercise its discretion judicially in determining the duration of the disqualification?

[44] Section 27 of the Act aims to encourage claimants to accept a suitable employment so as not to cause the risk of unemployment.<sup>16</sup>

[45] Therefore, the Tribunal must analyze the criteria in section 27(1)(a) of the Act to determine whether the Appellant refused a suitable employment.

1) Did the Appellant refuse an offer of employment?

[46] According to the Commission, the Appellant refused an offer of employment from Chef B., at his new employment. According to Chef B.'s statement to the Commission, he spoke to the Appellant on June 9, 2019, to offer him some hours at his new employer to make up for his hours at the bakery. During that conversation, Chef B. told the Appellant that he wanted an answer immediately because he would not wait for him. The Appellant hesitated, but he refused, mentioning that he wanted to try working at X.

[47] According to the Appellant, he did not refuse an employment. The Appellant explained that Chef B. had instead contacted him on June 6, 2019. Furthermore, the chef wanted him to

---

<sup>15</sup> Act, s 28(1)(a).

<sup>16</sup> *Estabrooks v Canada (Attorney General)*, A-787-96; *Tanguay v Canada (Unemployment Insurance Commission)*, (1985), 68 NR 154.



come work immediately, and it was only a few hours. The Appellant refused to work immediately because he was working at the bakery at the same time. The Appellant had an on-call job making deliveries for a bakery.

[48] The Appellant also refused to work for him because he was convinced he had been hired by X, and he wanted to work for them at that time.

[49] The Tribunal is of the view that the Appellant did not refuse an offer of employment because he did not receive an offer of employment from Chef B.

[50] First of all, there is an inconsistency between the Appellant's version of events and Chef B.'s version of events. However, regardless of the accepted version, there was no offer of employment made.

[51] The Tribunal does not know what kind of employment was offered to the Appellant, or at what hourly rate he would be paid. Furthermore, the Tribunal does not know what the head chef means by a few hours; was it a permanent part-time employment or a temporary on-call employment?

[52] The Commission's evidence is not enough to find that Chef B. made the Appellant an offer of employment.

[53] As a result, the Tribunal is of the view that the Appellant did not refuse an offer of employment.

2) If so, was that employment suitable?

[54] Considering that no offer of employment was made to the Appellant, the Tribunal does not have to answer that question.

3) If so, did the Appellant have good cause for refusing that employment?

[55] Considering that no offer of employment was made to the Appellant, the Tribunal does not have to answer that question.

4) If not, did the Commission exercise its discretion judicially in determining the duration of disqualification?

[56] Considering that no offer of employment was made to the Appellant, the Tribunal does not have to answer that question.

[57] The appeal is allowed on this issue.

**CONCLUSION**

*GE-19-3382*

[58] The appeal is allowed. The Appellant had just cause for leaving his employment because he had no reasonable alternative to leaving, considering that he had reasonable assurance of another employment in the immediate future.

*GE-19-3383*

[59] The appeal is allowed. The Appellant did not refuse an offer of suitable employment. The Appellant is not disqualified from receiving benefits.

Catherine Frenette  
Member, General Division – Employment Insurance Section

HEARD ON:	November 28, 2019
METHOD OF PROCEEDING:	Videoconference
APPEARANCES:	M. G., Appellant  Jean-Christian Blais (counsel), Representative for the Appellant