



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *R. L. v Canada Employment Insurance Commission*, 2020 SST 261

Tribunal File Number: GE-19-4060

BETWEEN:

R. L.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Teresa Jaenen

HEARD ON: January 14, 2020

DATE OF DECISION: January 15, 2020

DECISION

[1] The appeal is dismissed. The Claimant has not shown just cause because he had reasonable alternatives to leaving his job when he did. This means he is disqualified from receiving benefits.

OVERVIEW

[2] The Claimant left his job with 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] The Commission says that the Claimant could have remained employed while he secured work in the new area of residence instead of leaving his job.

[4] The Claimant disagrees and states that he moved to a new location to be closer to his daughter. He says that he was hoping to go to school in Ontario to get his high school equivalency. He says he wants to get EI while he looks for work or obtains certain certificates. He says that he should get EI because he has paid into the program for more than five years.

THE CLAIMANT DID NOT ATTEND THE HEARING

[5] The Claimant did not attend the hearing. A hearing is allowed to go ahead without the Claimant if the Claimant was given the notice of the hearing.¹ I think that the Claimant received the notice of hearing because the Claimant was sent his notice hearing by both certified mail and regular mail. There was no mail returned. A hearing was scheduled on January 14, 2020. So, the hearing proceeded on the date that was scheduled, but without the Claimant.

PRELIMINARY MATTERS

[6] The Claimant files his notice of appeal on November 28, 2019. A notice of hearing was sent to the Claimant's address on file by certified mail. A hearing was scheduled for December 19, 2019. The Claimant did not attend the hearing. I was not satisfied he had received his notice

¹ Section 12 of the Social Security Tribunal Regulations.

of hearing so I granted an adjournment. A second hearing was scheduled for January 14, 2020, and the notice of hearing was sent by certified and regular mail. I note that none of the correspondence has been returned to the Tribunal.

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

Did the Claimant quit his job?

[8] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit (in other words, voluntarily left the job on July 5, 2019). I see no evidence to contradict this.

Did the Claimant have just cause to quit his job.

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

[10] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you did not have just cause.² Having a good reason for leaving a job is not enough to prove just cause. You have just cause to leave if, considering all of the circumstances, you had no reasonable alternatives to quitting your job when you did.³ It is up to the Claimant to prove this.⁴ The Claimant has to show that it is more likely than not that he had no reasonable alternatives but to leave when he did.⁵

[11] When I decide that question, I have to look at all of the circumstances that existed when the Claimant quit. The circumstances I have to look at, include some set by law.⁶ After I decide

² This is set out at s 30 of the Employment Insurance Act.

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

⁴ Canada (Attorney General) v White, 2011 FCA 190, at para 3.

⁵ Canada (Attorney General) v White, 2011 FCA 190, at para 4.

⁶ Paragraph 29(c) of the Employment Insurance Act.

which circumstances apply to the Claimant, he then has to show that there was no reasonable alternative to leaving at that time.⁷

What were the circumstances that existed when the Claimant quit?

[12] The Claimant says that he wanted to move to Ontario to be closer to his daughter. Thus one of the circumstances set out in the law could apply, specifically, (v) obligation to care for a child or a member of the immediate family.

[13] A parent can leave employment to look after a child if no other reasonable arrangement can be made that would enable the parent to work and care for the child. Despite the fact that an obligation to take care of one's child can provide just cause, a claimant must still demonstrate that he or she had no reasonable alternative to leaving.

[14] The Claimant told the Commission that he quit his job to move to be closer to his nine-year-old daughter. He confirmed to the Commission that he did not need to move to take care of his daughter. He confirmed that his daughter already had care arrangements in place. He just wanted to be closer to her and see her on weekends.

[15] I agree the Claimant wanting to be closer to his daughter is definitely a good reason to want to leave his employment. However the evidence cannot support that he can justify his leaving because there was an obligation to care for a child.⁸ Or that leaving was his only reasonable alternative to leaving when he did.

[16] The Claimant says that he moved to Kenora, Ontario and had arranged a place to stay and was hoping to go back to school and get his high school equivalency. He says he was hoping to find a job after that.

[17] The Claimant says that when he arrived in Kenora, Ontario, his accommodations had fallen through. He says he spent the night in a hotel and then he returned to X. He says he never

⁷ Paragraph 29(c) of the Employment Insurance Act.

⁸ Paragraph 29(c)(v) of the Employment Insurance Act.

asked his employer for his old job back because he wanted to go to school. He says he registered for training and will start on September 9, 2019.

[18] The Claimant confirmed to the Commission that he never requested a leave of absence. He confirmed that he had not looked for other jobs, was there an urgency for him to quit. He says that he wanted to go and get settled and he wanted a change.

[19] The Claimant in his request for reconsideration stated that he wanted to receive EI while he searches for work and needs some sort of income to live on.

Did the Claimant have reasonable alternatives to leaving?

[20] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did. The Claimant says that he did not have any, because he wanted a change. He says he wanted to move to Ontario to be closer to his daughter and to go to school.

[21] The Commission disagrees, and says that the Claimant could have remained employed while he secured work in the new area of residence.

[22] I considered the Claimant's reasons that he wanted a change and wanted to go back to school. I find that is commendable when one wants to better themselves. However, choosing to quit your job to go to school and place yourself a position of unemployment is a personal choice and not one that the Canadian taxpayer should be expected to fund except in very specific, prearranged situations. In this case, the Claimant was not registered in school when he quit his job. And he was not authorized to leave his job to go to school by an authority designated by the Commission.

[23] I find that if the Claimant's wishes were to go to school a reasonable alternative would have been to speak to the Commission or a designated authority. And to see if he would be eligible to attend an approved course of instruction and be authorized to quit his job to do so.

[24] The Claimant did not provide any evidence that there was an urgency that required him to leave when he did but rather he just wanted a change which again is a personal choice.

[25] I considered the Claimant's agreement that he feels he should receive EI while he was looking for work because he has paid into the program for over 5 years.

[26] Unfortunately, a person is simply entitled to receive EI because they paid into the program. They must meet the conditions to qualify. The EI program is designed to help people who become unemployed by no fault of their own. In this case, the Claimant is not entitled to benefits because he made the choice to quit his employment and he had reasonable alternatives available to him.

[27] I find a reasonable alternative would have been to remain working until he was able to secure employment in Kenora, Ontario before moving there.

[28] Considering the circumstances that existed at the time that the Claimant voluntarily left, the Claimant had reasonable alternative to leaving when he did, for the reasons set out above. This means the Claimant did not have just cause for leaving his job.

CONCLUSION

[29] I find that the Claimant is disqualified from receiving benefits. This means that the appeal is dismissed.

Teresa Jaenen

Member, General Division - Employment Insurance Section

HEARD ON:	January 14, 2020
METHOD OF PROCEEDING:	Videoconference