Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *Canada Employment Insurance Commission and R. H.*, 2020 SST 149

Tribunal File Number: AD-19-659

BETWEEN:

Canada Employment Insurance Commission

Appellant

and

R. H.

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Stephen Bergen

DATE OF DECISION: February 17, 2020

Canada

DECISION AND REASONS

DECISION

[1] The appeal is allowed. The Claimant did not have just cause for leaving his employment.

OVERVIEW

[2] The Respondent, R. H. (Claimant), left his employment and moved to another community to live with his fiancée (partner) and her children. He applied for Employment Insurance benefits, but the Applicant, the Canada Employment Insurance Commission (Commission), did not accept his claim. It found that he had voluntarily left his employment without just cause. When the Claimant sought a reconsideration, the Commission maintained its decision.

[3] The Claimant appealed to the General Division of the Social Security Tribunal, which allowed his appeal, finding that the Claimant had no reasonable alternative to leaving his employment. The Commission has appealed the General Division decision to the Appeal Division.

[4] The appeal is allowed. The General Division made an important error of fact when it accepted that the Claimant needed to move in with his fiancé's (partner) family on an urgent basis.

WHAT GROUNDS CAN I CONSIDER FOR THE APPEAL?

[5] I may only allow the appeal if I find that the General Division made an error or errors that are related to the "grounds of appeal". These are described below:[1]

1. The General Division hearing process was not fair in some way.
2. The General Division did not decide an issue that it should have decided. Or, it decided something it did not have the power to decide.
3. The General Division based its decision on an important error of fact.
4. The General Division made an error of law when making its decision.

[1] This is a plain-language version of the three grounds. The full text is in section 58(1) of the *Department of Employment and Social Development Act.*

ISSUES

[6] Did the General Division misapply the case law to determine that the Claimant had no reasonable alternative to leaving his employment?

[7] Did the General Division make an error of law by considering irrelevant circumstances?

[8] Did the General Division make an important error of fact by ignoring evidence that the Claimant returned to work for his former employer?

ANALYSIS

Mistaken application of law

[9] The Claimant left his job to accompany his partner to another residence. The Commission argued that the Claimant was not married to, or in a common-law relationship with, his partner. Because of this, it asserted that the General Division misapplied the Federal Court of Appeal decision in *Attorney General of Canada v Kuntz*.[2] The Court in *Kuntz* had been of the view that claimants may be found to have no reasonable alternative to leaving their employment, if they are able to establish that they moved to accompany a spouse.

[10] The General Division cited *Kuntz* when it was describing some of the case law that bears on the issues before it,[3] but it did not rely on the decision in *Kuntz*. Nothing from the hearing or the decision suggests that the General Division understood the Claimant's partner to be his spouse or common-law partner or that it understood *Kuntz* required that it treat the Claimant's relationship to his partner in the same manner as a spousal or common-law relationship. To the contrary, the General Division member instructed the Claimant that he did not need to fit into one of the particular circumstances listed in section 29(c) of the *Employment Insurance Act* (EI Act).[4] The member acknowledged that the Commission had focused on whether the Claimant met the definition of spouse or common-law partner (for the purpose of section 29(c)(ii) of the EI

[2] *Attorney General of Canada v Kuntz*, A-1485-92.
[3] General Division decision, para 8.
[4] Audio recording of General Division hearing at timestamp 00:09:10.

Act). But the member told the Claimant that the General Division needed to look at whether the Claimant had no reasonable alternative to leaving considering "everything at play."[5]

[11] This is consistent with section 29(c) of the EI Act. Section 29(c) outlines a number of relevant circumstances, including the circumstance where a claimant moves to accompany a spouse or common-law partner. Section 29(c) also states that just cause exists where there are no reasonable alternatives, "having regard to all the circumstances"—not just the listed circumstances.

[12] The General Division did not make an error of law err in law, as argued. It did not rely on *Kuntz* or consider the Claimant to have met the definition of spouse or common-law partner under section 29(c) of the EI Act.

Irrelevant circumstances

[13] The Commission argued that the General Division made an error of law by relying on irrelevant circumstances.

[14] The General Division considered a number of circumstances, including the following:[6]

a) At the time the Claimant quit his job, he was in a relationship with his partner, who had three children.
b) The Claimant planned to marry his partner and was willing to take on parental obligations towards the children.
c) One of those children, the 12-year-old son of the Claimant's partner, was making poor choices, and his situation was worsening.
d) The son urgently needed another adult in the family to ensure he attended school and to prevent him from using drugs and alcohol.

[15] The evidence before the General Division included the Claimant's statement that he had been in a relationship with his partner for six months. He did not live with her, but he commuted to visit her on the weekends.[7] He also testified that he loved his partner's children and had

[5] Audio recording of General Division hearing at timestamp 00:08:35.
[6] General Division decision, paras 11 and 12.
[7] GD3-27.

committed to treat them as his own.[8] He testified that his partner's 12-year-old son was taking their move to another community "hard" and had started skipping school.[9] In an earlier statement to the Commission, the Claimant stated that the son was using drugs and alcohol.[10] The Claimant told the Commission that his partner had no other family to help her and could not handle the situation alone. He said that the family needed him to step in as a father figure,[11] to help correct the son's behaviour.[12]

Relevance of the Claimant's relationship with his partner's children

[16] The Commission did not dispute that the 12-year-old son of the Claimant's partner had behavioural issues and required immediate assistance. It also acknowledged that the Claimant was willing to take on parental obligations towards the child. However, the Commission argued that the Claimant's partner's children should not be considered under the circumstance described in section 29(c)(v) of the EI Act, which describes an "obligation to care for a child or a member of the immediate family." According to the Commission, section 29(c)(v) does not apply because the Claimant's partner is not a spouse or common-law partner. The Commission states that this means that her children cannot be considered members of the Claimant's immediate family.

[17] I do not accept this argument. Section 29(c)(v) describes an obligation to care for a child **or** a member of the immediate family. It does not require that there be an obligation to care for a child who is **also** a member of the immediate family. If the Claimant has made out that he has an obligation to his partner's 12-year-old son or her other children, then his circumstances would fall within section 29(c)(v) and must be considered.

[18] However, the Commission's arguments implicitly deny that the Claimant had any obligation to the child or children. The Claimant referred to the Federal Court of Appeal decisions *Canada (Attorney General) v Thompson*[13] and *Thomas v Canada (Attorney General)*.[14] The Commission cited these decisions in support of its argument that there was no evidence that

[8] Audio recording of General Division hearing at timestamp 00:12:35.
[9] Audio recording of General Division hearing at timestamp 00:9:30.
[10] GD2-2.
[11] GD3-27 and GD2-2.
[12] GD2-2.
[13] *Canada (Attorney General) v Thompson*, 2007 FCA 391.
[14] *Thomas v Canada (Attorney General)*, 2004 FCA 184.

the child of the Claimant's partner had established a "child-parent relationship with the claimant **prior** to the move."[15]

[19] The *Thompson* decision has nothing to do with a claimant's obligation to accompany a dependent child or otherwise care for a child. However, *Thomas* intersects the Commission's argument, even if the connection may be difficult to track. In *Thomas*, the Court supported its finding that the Umpire[16] had considered all the circumstances by observing that the Umpire had referred to Canadian Umpire Benefit (CUB) decision 52387A. CUB 52387A was a different case entirely, but it also concerned a claimant who had quit her job to move in with her partner. The Umpire (in the decision on appeal in *Thomas*) said that CUB 52387A did not limit itself to assessing whether the claimant's partner met the EI Act's definition of common-law partner and so it had correctly considered "all the circumstances."

[20] The CUB 52387A decision also referred to other Umpire decisions that had accepted claims where the claimants had quit their jobs to join partners that were not common-law partners within the meaning of the EI Act. The Umpire in CUB 52387A analyzed those other Umpire decisions and noted that "[a] major factor […] was that the claimant had a child who had established a child-parent relationship with the claimant's 'spouse' prior to the relocation." This statement from CUB 52387A appears to be the link between the *Thomas* decision and the Commission's argument and the source of the Commission's assertion that the child had not established a child-parent relationship with the Claimant before the move.

[21] *Thomas* did not adopt the language of CUB 52837A to require that a child of the claimant must have established a child-parent relationship with the claimant's "spouse" before the relocation. The Commission provided no authority for its position that it is "the child" that must establish a child-parent relationship, or that it must be the claimant's child in relationship with the claimant's partner as opposed to the claimant in relationship with the partner's child. Nor did it offer any judicial interpretation of what kind of commitment, dependence, or affection is contemplated by a "child-parent relationship."

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[15] AD2-3.
[16] The Umpire was the highest-level decision-maker in the former administrative appeal system for Employment Insurance.

[22] Other decisions of the former Umpire have held that "the obligation to care for a child" is meant to only apply to a claimant's own child or to children in a common-law or legal marriage.[17] The Claimant was not the biological father of the children and he was not their mother's legal spouse. There was no evidence that he had any other legal relationship with the children.

[23] However, the decisions of the Umpire are not binding on the General Division. There is no **binding** legal authority that would have required the General Division to find that the Claimant must be the legal parent or guardian of the child in order for the child to be "dependent" if it had applied section 29(c)(ii). Likewise, it would not be bound to define the obligation to accompany a child under section 29(c)(ii) or the obligation to care for a child under section 29(c)(v) as a legal obligation.

[24] The list of included circumstances in section 29(c) is not exhaustive, and the General Division was not relying on section 29(c)(ii) and 29(c)(v). The courts have not found the absence of a **legally recognized** relationship to prevent the General Division from applying sections 29(c)(ii) and (v). Therefore, I cannot say that the absence of legal recognition should prevent the General Division from considering the Claimant's relationship to the children to be relevant when it is not even applying sections 29(c)(ii) and (v).

[25] The Commission asserted that the Claimant was not the "primary caregiver,"[18] and it suggested that this meant that it was a "personal choice" for the Claimant to take on parental obligations. The Commission seems to be arguing that the circumstances considered by the General Division could not be relevant to its decision because they were **personal**. In support of this argument, the Commission referred to *Canada (Attorney General) v Imran*.[19] I do not find *Imran* to be helpful to the analysis. The Court in *Imran* had found a claimant to have reasonable alternatives to leaving because he made a choice to quit to look for a better job. The *Imran* decision does not define "personal" or definitively exclude any other personal circumstance as an irrelevant consideration.

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[17] CUB 33593 and CUB 29980.
[18] AD2-3.
[19] *Canada (Attorney General) v Imran*, 2008 FCA 17.

[26] I am unaware of a test or objective method where one circumstance might be considered personal and dismissed as irrelevant and where another circumstance should be considered relevant because it is not personal. I appreciate the general principle expressed in *Tanguay v Unemployment Insurance Commission*[20] that the legislation should be interpreted in accordance with the duty that ordinarily applies to any insured, which is to not deliberately cause the risk of unemployment. However, I do not read *Tanguay* to suggest that personal circumstances must necessarily be excluded. *Tanguay* gives the example of an employee whose spouse is ill and cannot withstand the climate of the area he works in and who has to accompany his spouse to another location. According to *Tanguay*, this situation would still justify quitting. The *Tanguay* example concerns a spouse, but it is no less "personal" than the Claimant's circumstances.

[27] Section 29(c) of the EI Act states that the Commission must have regard to the circumstance in section 29(c)(v) where a claimant has an obligation to care for a dependent child. Likewise, it must consider the circumstance described in section 29(c)(ii) if a claimant has accompanied a "spouse, common-law partner or dependent child to another residence." The legislation accepts both of these circumstances as relevant. The General Division did not apply either section 29(c)(v) or section 29(c)(ii), but those circumstances are no less "personal" than the Claimant's choice to accompany his fiancé to another residence so that he could help care for her children. In other words, circumstances may not be presumed to be irrelevant only because they intersect with personal considerations.

[28] The General Division did not make an error by considering that the Claimant believed he needed to accompany his partner to help her care for her children, and her 12-year-old son in particular. This was not an irrelevant consideration.

[29] Relevance of the Claimant's partner's relocation

[30] As noted, the Commission referenced *Canada (Attorney General) v. Thompson* and *Thomas v. Canada (Attorney General)* to support an argument that the Claimant's relationship with his partner's son was irrelevant. Neither *Thompson* nor *Thomas*, nor any other authority cited by the Commission, suggest that a claimant's relationship with a fiancé **cannot** be

[20] *Tanguay v Unemployment Insurance Commission*, A-1458-84.

considered a relevant circumstance even though it is not captured under section 29(c)(ii) of the EI Act.

[31] *Thompson* is concerned only with the nature of a claimant's relationship with his or her partner. It says that a relationship that does not meet the definition of spouse or common-law partner does not establish the circumstance in section 29(c)(ii) of the EI Act. The *Thompson* decision has nothing to say about whether the kind of relationship the Claimant had with his partner might still be considered relevant, even though it does not meet the section 29(c)(ii) definition.

[32] In *Thomas*, there was a question whether the Umpire had considered **all** of the circumstances or had limited itself to assessing whether the claimant's relationship was with a spouse or common-law partner. The Court determined that the Umpire had not limited its consideration to section 29(c)(ii) and had instead properly considered **all** the circumstances.

[33] To determine whether the Claimant's particular circumstances are relevant, it may be helpful to consider the policy justification for including the obligation to accompany a spouse or dependent child in the section 29(c) list of circumstances. The *Kuntz* decision that was referenced by the General Division followed the reasoning in *Attorney General of Canada v Whiffen.*[21] *Whiffen* suggested that preserving the family unit was the policy justification for stipulating an obligation to accompany a spouse or dependent child as a relevant circumstance.[22] *Kuntz* cited *Canada (Attorney General) v Dodsworth* and *Whiffen*, stating the following:

> I should think that, as a matter of public policy, the respondent's move must be regarded as one which she had no option but to make and not just one made for good cause or reason. The case of a claimant moving with his or her spouse in order to preserve the family unit is, in my view, a very different matter […].[23]
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> [A] wife, because the unity of the family is at issue, has practically no choice but to move with her husband, with the effect that her move cannot be seen as a wilful restriction to her chances of re-employment. In such a

[21] *Attorney General of Canada v Whiffen*, A-1472-92.
[22] This was under section 28(4)(b) of the former *Unemployment Insurance Act*, similar to the current section 29(c)(ii) under the *Employment Insurance Act*, except it referred only to spouses and dependent children.
[23] *Canada (Attorney General) v Dodsworth*, 1984 CanLII 3629 (FCA).

> case, therefore, as in the case of a husband who follows his wife, the impugned policy can have no application.[24]

[34] I appreciate that *Kuntz, Dodsworth*, and *Whiffen* are all referring to legal spouses, but I note that the rationale of preserving the family unit is unrelated to employment circumstances and is therefore "personal." *Whiffen* and *Dodsworth* imply that preserving the family unit is not only relevant, but so significant that a married claimant may be presumed to have no reasonable alternative to leaving on that basis alone.

[35] The Claimant planned to marry his partner as soon as her divorce was final. After she moved, he decided to follow her to her new home, move in, and stand as a father to her children. The Claimant was neither married nor a common-law partner to his fiancé and he was not a biological or custodial parent to her children. I will not speculate as to whether this may be considered a move to "preserve the family unit." However, I do note that the "family unit" concept is one which has evolved since *Whiffen* to include common-law spouses, and one which continues to evolve.

[36] In my leave to appeal decision, I referred to the Federal Court of Appeal decisions in *Canada (Attorney General) v Campeau* and *Canada (Attorney General) v Côté*.[25] I noted that it was possible to interpret *Campeau* to suggest that "all of the circumstances" described in section 29(c)(ii) of the EI Act are all of the circumstances of a certain **type**. I observed that *Côté* could be read to suggest that this type might exclude circumstances that were within the Claimant's control. However, the Commission did not argue the application of these decisions to the present circumstances. On balance, I am not satisfied that these decisions are authority for the notion that all personal circumstances should be excluded as irrelevant to the question of just cause, or that the circumstances of the Claimant in this case should be excluded.

[37] Regardless of the applicability of section 29(c)(ii) or 29(c)(v) of the EI Act, the General Division considered the Claimant's choice to accompany his fiancé and her family to another residence to be relevant. It also considered relevant the Claimant's conviction that he had to act urgently to correct the course of the 12-year-old son of the Claimant's partner. Having regard to

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[24] *Supra*, note 21
[25] *Canada (Attorney General) v Campeau*, 2006 FCA 376; *Canada (Attorney General) v Côté*, 2006 FCA 219.

those circumstances, the General Division found that the Claimant had no reasonable alternative to leaving.

[38] I am satisfied that the particular circumstances that motivated the Claimant's decision to leave his employment are at least relevant. I find that the General Division did not make an error of law by basing its decision on irrelevant considerations.

Important error of fact

Evidence that Claimant returned to work with his former employer

[39] The General Division also argued that the General Division did not consider that the Claimant took a part-time job with his old company while he looked for work in his new location. This is taken from a brief notation in the Claimant's August 15, 2019, Notice of Appeal. The note says nothing about the circumstances of the part-time job, when he returned to work, or how he coordinated his part-time hours with his new life and residence. The General Division did not ask the Claimant to explain this at the hearing, and I would not be permitted to consider any evidence that was not before the General Division.

[40] The question before the General Division was whether the Claimant had reasonable alternatives at the time he left his job in March 2019, when his partner's children were still in school. The information in the Notice of Appeal appears to describe circumstances that occurred several months later. As noted in the Commission's submissions, "[t]he Federal Court of Appeal as [*sic*] confirmed that it is the circumstances which existed at the time the claimant left his employment that are relevant to whether just cause exists and not some future events which came about after the voluntary leaving occurred."[26]

[41] I do not find that the Claimant's statement is particularly probative or significant, and I do not accept that the General Division made an important error of fact by not referring to it. The Federal Court of Appeal has stated that a tribunal does not need to address each and every piece of evidence.[27]

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[26] AD2-3, citing *Canada (Attorney General) v Lamonde*, 2006 FCA 44.
[27] *Simpson v Canada (Attorney General)*, 2012 FCA 82.

Other evidence ignored or misunderstood

[42] Having said that, I note that the General Division's decision that the Claimant had no reasonable alternative rests on two key findings of fact. The first finding is that the Claimant needed to take action to address the worsening situation of his partner's son, "without delay."[28] The second finding is that the required action was that the Claimant should "step in as a father figure" to address the behavioural issues.[29]

[43] There was some evidence of problems with the son's behaviour that would support the first finding. However, the second finding rests entirely on the Claimant's opinion that the family needed him to move in so that he could help with the son's behaviour. The Claimant undoubtedly knows his partner and has likely come to know the son well also. He likely wants to do what he can to help his partner and her son. However, the General Division should not have relied solely on the Claimant's opinion to find that he needed to move in with the family.

[44] The courts do not allow non-expert opinion evidence except where it relates to those things on which everyone might be considered knowledgeable. Even then, the courts still require a witness's lay opinions to be based on his or her own observations.[30] While the General Division is not strictly bound by the rules of evidence, it cannot accept and rely on the unfounded opinion of a lay witness as a substitute for facts.

[45] Even if I accepted that the Claimant was qualified to form an opinion on how his presence would benefit his partner's child, his opinion would need to be based on facts that are in evidence so that the General Division could determine what weight, if any, to give to the Claimant's opinion. In this case, there was no evidentiary foundation for the Claimant's opinion.

[46] The General Division might have inferred a degree of emotional dependence on the Claimant from the Claimant's testimony that the 12-year-old son's behaviour improved in some fashion after the Claimant moved in. However, this would not have been the only inference that the General Division could have drawn from that one piece of evidence. For example, the son may simply have begun to adjust to his new home and school. I appreciate that the Claimant

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[28] General Division decision, para 12 and 13.
[29] General Division decision, para 13.
[30] *Graat v R*, [1982] 2 SCR 819, 144 DLR (3d) 267.

believed he would be a stabilizing influence on the boy, but there was no direct evidence that the boy had a particular attachment to the Claimant or was emotionally dependent on him in any way.

[47] Until the Claimant moved to be with his partner and her children, he had never lived with the family and he had only seen his partner's children on weekends. He did not describe in what way he had taken responsibility for the care of any of the children before he moved in. He may have felt that he was somehow obligated to help his fiancé take care of her children, but there was no evidence to show that he had ever acted in a manner consistent with such an obligation before his move.

[48] Aside from the Claimant's assertion, there was no evidence before the General Division that would allow it to independently determine that the Claimant could effectively intervene with the 12-year-old son only by moving in with the family. It could not even determine that the Claimant's intervention would be helpful, or more helpful than other possible interventions. The Claimant's partner did not testify. The 12-year-old son did not testify. No other member of the family or other witness testified. There was no expert testimony or expert report that evaluated the family situation. The Claimant did not testify about the son's behavioural problems except to say that the son was skipping school. He alluded to the son's bad choices drugs and alcohol in his Notice of Appeal but provided no details.[31] The Claimant did not testify about his own observations of how the son's behaviour improved in his presence. He did not give any examples of how the son's attendance at school improved or how the son became less involved with drugs or alcohol as a result of the Claimant's involvement.

[49] In my view, the General Division made an important error of fact when it found that the Claimant needed to move in with the family to help address the son's behavioural issues. This finding was perverse or capricious because it relied exclusively on the unfounded and inexpert opinion of the Claimant.

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[31] GD2-2.

Summary of errors

[50] I have found that the General Division made an important error of fact by relying on the Claimant's unfounded opinion evidence.

REMEDY

[51] I have the authority to change the General Division decision or make the decision that the General Division should have made.[32] I could also send the matter back to the General Division to reconsider its decision.

[52] I will give the decision that the General Division should have given because I consider that the appeal record is complete. That means that I accept that the General Division has already considered all the issues raised by this case and that I can make a decision based on the evidence that the General Division received.

[53] The determination that a claimant has just cause depends on the finding that the claimant has no reasonable alternative to leaving his or her employment. The General Division demonstrated an appreciation for the legal definition of "just cause," and it determined that the Claimant had just cause because it understood the Claimant to have no reasonable alternatives to leaving.

[54] However, the General Division considered only one reasonable alternative, which was the alternative that the Commission put forward when it denied the Claimant's reconsideration request. That alternative was that the Claimant could have continued to look for work where his partner lived. The General Division did not say whether it considered any other reasonable alternatives.

[55] The General Division found that the Claimant could not have continued to work while he looked for work where his partner lived because it accepted that the Claimant needed to join his partner in her household and that he needed to join her **urgently**.[33]

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[32] My authority is set out in section 59 of the *Department of Employment and Social Development Act*.
[33] General Division decision, para 12.

[56] The Claimant testified about his belief that the behaviour of his partner's 12-year-old son would improve if he lived in their home as a father figure. However, there was no other evidence before the General Division that supported his belief that his full-time presence in the home would be necessary or even beneficial.

[57] The burden of proof is on the Claimant to show that he had no reasonable alternatives and I find that the Claimant has not established that the only way that the son's problems could be addressed would be for the Claimant to immediately move in with the family. Therefore, reasonable alternatives could include alternatives that would not require him to move immediately.

[58] According to the Federal Court of Appeal in *Canada (Attorney General) v Murugaiah*,[34] I must consider any reasonable alternative that is obvious. Even if the Claimant is correct that the son required urgent intervention, there were other options that the Claimant and his partner could have explored. They might have sought counselling for the child, tried to arrange to have the Claimant's partner work alternative hours so that she could be home when her son needed to leave for school (or find other employment or financial supports so that she could be home). They might have considered having the partner's family move back to the town where the Claimant worked. All of these are reasonable alternatives that were available at the time that the Claimant quit his job.

[59] I note that the Commission originally investigated whether the Claimant could have asked for a leave.[35] The Claimant's employer would not confirm to the Commission that a leave was possible,[36] and the Claimant told the Commission that he did not ask for a leave because he expected his move to be permanent.[37] However, the Claimant's reason that he did not ask for a leave presumed that he was needed in the home full-time and needed immediately. He has not shown that this was true. In my view, the Claimant could still have asked for a leave to help his partner explore other arrangements or supports for her son. If he thought the son needed a father figure to live in the home, he might have taken a temporary leave before he quit so that he could

[34] *Canada (Attorney General) v Murugaiah*, 2008 FCA 10.
[35] GD3-20,21, and 27.
[36] GD3-21.
[37] GD3-20.

move in on a trial basis. Then he would be in a better position to assess whether he could only help the son by moving in permanently.

[60] The Claimant has not shown that moving in with his partner's family was the only way that his partner's son could have been helped. He has not established that he had no reasonable alternative to leaving his employment.

CONCLUSION

[61] The appeal is allowed. The Claimant did not have just cause for leaving his employment.

Stephen Bergen
Member, Appeal Division

HEARD ON:	January 14, 2020
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	R. H., Appellant Rachel Paquette, Representative for the Respondent