



Citation: *MC v Canada Employment Insurance Commission*, 2021 SST 365

**Social Security Tribunal of Canada  
General Division – Employment Insurance Section**

## Decision

**Appellant:** M. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (417871) dated March 10, 2021 (issued by Service Canada)

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**Tribunal member:** Raelene R. Thomas

**Type of hearing:** Teleconference  
**Hearing date:** April 9, 2021  
**Hearing participant:** Appellant  
**Decision date:** April 12, 2021  
**File number:** GE-21-438

## **Decision**

[1] The appeal is allowed. The Tribunal agrees with the Claimant.

[2] The Claimant, M. C., has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Claimant had just cause because she had no reasonable alternative to leaving.

[3] This means she is not disqualified from receiving Employment Insurance (EI) benefits.

## **Overview**

[4] The Claimant applied for EI benefits on April 8, 2020, and after the end of EI Emergency Response Benefits her claim was converted to Initial Regular EI benefits effective October 4, 2020. The Claimant was working part-time while taking a Personal Service Worker (PWS) course on line. She was required to do an unpaid work placement to complete her program. Her last day at work was November 28, 2020. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving her job. It decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her EI benefits.

[5] I must decide whether the Claimant has proven that she had no reasonable alternative to leaving her job.

[6] The Commission says that the Claimant could have continued to work weekends, discuss her need for the placement with her employer and seek a leave of absence.

[7] The Claimant disagrees and says that she could not have continued to work weekends and that she was not able to take a leave of absence.

## **Matter I have to consider first**

### **The Commission made a clerical error**

[8] The Commission submitted that it made two errors: it did not send an initial decision letter to the Claimant; and, it said the initial decision was made on March 2, 2021, in the reconsideration letter it sent to the Claimant. The Commission stated the

initial decision was made on February 11, 2021, and that date should have been referenced in the reconsideration letter.

[9] Where an error does not cause prejudice or harm, it is not fatal to the decision under appeal.<sup>1</sup> Because the Commission's error did not prevent the Claimant from seeking reconsideration of the Commission's initial decision and later to appeal the reconsideration decision, I find that the error does not cause the Claimant any prejudice or harm.

## **Issue**

[10] Is the Claimant disqualified from receiving benefits because she voluntarily left her job without just cause?

[11] To answer this, I must first address the Claimant's voluntary leaving. I then have to decide whether the Claimant had just cause for leaving.

## **Analysis**

### **The parties agree that the Claimant voluntarily left**

[12] The parties are the Commission and the Claimant.

[13] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit her job. I see no evidence to contradict this.

### **The parties don't agree that the Claimant had just cause**

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

[15] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>2</sup> Having a good reason for leaving a job is not enough to prove just cause.

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<sup>1</sup> *Desrosiers v. Canada (AG)*, A-128-89. This is how I refer to court decision that apply to this appeal.

<sup>2</sup> Section 30 of the *Employment Insurance Act (Act)* explains this.

[16] The law explains what it means by “just cause.” The law says that you have just cause to leave if you had no reasonable alternative to quitting your job when you did. It says that I have to consider all the circumstances.<sup>3</sup>

[17] It is up to the Claimant to prove that she had just cause.<sup>4</sup> She has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that she had no reasonable alternatives to leaving her job when she did. When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit.

[18] The Claimant is employed by a national retail chain. She works part-time as a cashier on an as and when required. She receives her schedule on Thursday or Friday night for the following week. The Claimant typically works every second weekend with the understanding that she can and will work additional hours if called.

[19] The Claimant said she was initially laid off in April 2020 when the store closed due to the COVID-19 Pandemic. She returned to work about a month later. In June 2020 the Claimant started an on-line course to become a PSW. The general manager and the store owner were aware that she was taking the course.

[20] The Claimant testified that she explained to the owner that she would be doing a placement starting December 3, 2020. She testified the owner replied, “You’re going to quit then?” The Claimant replied that she could work another week but the owner said “No, you’re done.” The Claimant’s last day of work was Saturday, November 28, 2020. She was due to attend orientation for the PSW on Thursday, December 3, 2020 and Friday, December 4, 2020.

[21] The Claimant said that she did not have a good relationship with the employer. She thought it was blatant that he did not want her working there. She got this feeling from conversations with the owner. The Claimant said that in the month or so prior to her stopping work that there were signs posted in the store looking for bilingual

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<sup>3</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

<sup>4</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

cashiers. The Claimant is bilingual in that she speaks English and American Sign Language. She said that the owner resented that she did not speak French. The Claimant said the rule was that you could only work for the store and could not hold part-time jobs elsewhere. When a job for head cashier was posted the Claimant was interviewed but did not get the job. During the interview there was a comment about loyalty and the owner said he did not understand what loyalty meant. The job was given to a new employee who held part-time employment elsewhere and was bilingual.

[22] The Claimant said that the PSW placement required that she work for 200 hours. She would have to drive 75 minutes to get from her residence to the placement. If she missed a shift during the week she would be expected to make it up on a weekend. The Claimant did not think it would be possible for her to continue working weekends while doing the placement. It would be too physically demanding. She did not ask for a leave of absence because from the beginning when she told the owner about the course and the placement he always responded with, “you will quit once you are done [with the course]?”

[23] The Commission says that the Claimant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says that the Claimant could have continued to work weekends, discuss her need for the placement with her employer and seek a leave of absence.

[24] I find that Claimant has proven that she had just cause for leaving her job when she did because she has shown there were no reasonable alternatives to leaving.

[25] The Claimant testified that when she discussed the upcoming placement with her employer that he replied, “you're going to quit then.” She offered to work the following weekend and that offer was refused with the response, “No, you're done.” This evidence tells me that the Claimant would not be permitted by her employer to continue working weekends while she completed the PSW placement. As a result, I find that the alternative of working weekends was not available to the Claimant. This evidence also tells me that a leave of absence also would not be permitted by the employer to allow

the Claimant to complete the PSW placement. As a result, I find that the alternative of a leave of absence was not available to the Claimant.

[26] Alternatives that are not available to a Claimant cannot be considered reasonable. Accordingly, the Claimant has proven that, on a balance of probabilities, she had just cause to voluntarily leave her job because there were no reasonable alternatives to leaving when she did.

## **Conclusion**

[27] I find that the Claimant is not disqualified from receiving EI benefits.

[28] This means that the appeal is allowed.

Raelene R. Thomas  
Member, General Division – Employment Insurance Section