



Citation: *JC v Canada Employment Insurance Commission*, 2021 SST 589

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

**Decision**

**Claimant:** J. C.

**Commission:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (427584) dated July 9, 2021  
(issued by Service Canada)

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**Tribunal member:** Audrey Mitchell

**Type of hearing:** Teleconference

**Hearing date:** August 12, 2021

**Hearing participant:** Claimant

**Decision date:** August 17, 2021

**File number:** GE-21-1259

## Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

[2] The Claimant hasn't shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Claimant didn't have just cause because he had reasonable alternatives to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

## Overview

[3] The Claimant left his job working for a communications company on May 14, 2021 and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. They decided that he voluntarily left (or chose to quit) his job without just cause, so they weren't able to pay him benefits.

[4] I have to decide whether the Claimant has proven that he had no reasonable alternative to leaving his job.

[5] The Commission says that, instead of leaving when he did, the Claimant could have spoken to his employer about his concerns or continued to work until he found another job.

[6] The Claimant disagrees and says that he has a number of reasons for leaving his job after being compelled to travel out of town. He says that any one of the reasons should be enough to show just cause, and added together, there should be no other conclusion.

## Issue

[7] Is the Claimant disqualified from receiving benefits because he voluntarily left his job without just cause?

[8] 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

[9] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit on May 14, 2021. I see no evidence to contradict this.

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

[10] The parties don't agree that the Claimant had just cause for voluntarily leaving his job when he did.

[11] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[12] 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 you have to consider all the circumstances.<sup>2</sup>

[13] It is up to the Claimant to prove that he had just cause. He has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that his only reasonable option was to quit.<sup>3</sup>

[14] When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit. The law sets out some of the circumstances I have to look at.<sup>4</sup>

[15] After I decide which circumstances apply to the Claimant, he then has to show that he had no reasonable alternative to leaving at that time.<sup>5</sup>

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<sup>1</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

<sup>2</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

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

<sup>4</sup> See section 29(c) of the Act.

<sup>5</sup> See section 29(c) of the Act.

## **The circumstances that existed when the Claimant quit**

[16] The Claimant says that one of the circumstances set out in the law applies. Specifically, he says that having to travel during a pandemic constituted a danger to his and his wife's health and safety.

[17] The Claimant had worked for the employer before. He testified that the employer's business is a communications company involved in cable, equipment and set-up. He said that he rarely had to go out of town when he first worked for the employer. However, this time, he had to travel for days at a time outside the region in which he lives, and further than the next town over.

[18] The Claimant told the Commission that he didn't want to do road trips because of the pandemic and travel restrictions. He also said he didn't want to do so because he has a wife, children and a dog at home and couldn't leave home for a week at a time. He confirmed that there were no special considerations related to his family such as illness or special care arrangements.

[19] Although the Claimant referred to his wife's medical condition in his notice of appeal, he confirmed at the hearing that there was nothing about her health that required his care. He added that he and his wife had just been particularly careful in the pandemic and did not want to take unnecessary risks.

[20] The Claimant did not argue that he had just cause because of an obligation to care for a member of his immediate family. Based on his testimony, I do not find that this section of the law applies. I find that he was simply expressing that he did not want to be away from his family and dog.

[21] The Commission asked the Claimant if his employer complied with safety regulations. He confirmed that the employer had been compliant with travel restrictions, but added that non-essential travel was not recommended. The Claimant spoke at the hearing about provincial recommendations against travel. He feels that in these circumstances, it is unreasonable to compel someone to continue with a job that requires him to be out of town.

[22] I understand the Claimant's desire not to travel out of town, and to have to stay in hotels and eat in restaurants during a pandemic. I also understand that he wanted to reduce the risk to himself and his family, especially given his wife's medical condition. However, he says that his employer complied with safety regulations. Other than having to travel and be away from home, he did not identify anything about his working conditions themselves that were dangerous to his health and safety.

[23] In spite of the Claimant's concerns for his health and safety, I don't find that the circumstances he refers to fall under those described in the law. The Claimant did not speak of his work environment or duties posing a danger to his health and safety. He also did not speak of a particular health condition he has that might create additional cause for concern. For these reasons, I do not find that his work conditions constituted a danger to his health or safety.

### **The Claimant had reasonable alternatives**

[24] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did.

[25] The Claimant says that he had no reasonable alternative because he wanted to reduce his exposure to COVID-19 given his age and his wife's health. He said that he should not be compelled to continue in a job that would require travel away from home. He says this is especially the case when the government is strongly advising against travel.

[26] The Commission disagrees and says that the Claimant could have spoken to his employer about his concerns or he could have stayed at his job until he secured another job.

[27] I find that the Claimant had reasonable alternatives to leaving when he did. The Claimant told the Commission that he didn't talk to his employer about his concerns. He said he didn't do so because of how the company is structured. I asked him about this at the hearing. The Claimant said that the employer has three or four employees where he lives. He said that there is no opportunity to say he wanted to work only in town.

The Claimant explained that if he wanted to be on the crew, he had to go with the crew. He added that the reason the employer was pursuing jobs out of town is that there was not enough work in the town where he lives.

[28] The Claimant testified that he saw on the job board that there were many out of town trips coming up and he could see this was going to be a trend. Again, I understand the Claimant's concerns. However, I find that he could have spoken to his employer to see if they could have made an accommodation given the unusual circumstance created by the pandemic. In general, a claimant who leaves their job because they fear dangerous working conditions should discuss with the employer if there are measures that could be taken to reduce the fear.<sup>6</sup> The Claimant did not do so.

[29] I also find that the Claimant could have tried to find and secure another job before quitting his job. He testified that this was difficult to do since he was on the road hours away from home. He added that this would have meant that he would have to continue to travel which he was not prepared to do.

[30] I find that the Claimant had good reasons to quit his job for himself and his family. However, considering the circumstances that existed when he quit, I find that he had reasonable alternatives to leaving when he did, for the reasons set out above.

[31] This means the Claimant didn't have just cause for leaving his job.

[32] In his notice of appeal, the Claimant said that since the pandemic, private and public institutions, government included, have abandoned, relaxed or reformed rules and policies to reflect the new reality. He said that given the circumstances, the finding that he left his job without just cause is not fair. I acknowledge that it may seem unfair to the Claimant. However, I cannot make decisions outside of the law for any reason, no matter how compelling the circumstances.<sup>7</sup>

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<sup>6</sup> Hernandez

<sup>7</sup> *Granger v. Canada Employment and Immigration Commission*, A-684-85.

## **Conclusion**

[33] I find that the Claimant is disqualified from receiving benefits.

[34] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section