



Citation: *KC v Canada Employment Insurance Commission*, 2021 SST 605

## Social Security Tribunal of Canada Appeal Division

# Decision

**Appellant:** K. C.

**Respondent:** Canada Employment Insurance Commission  
**Representative:** Josée Lachance

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**Decision under appeal:** General Division decision dated January 25, 2021  
(GE-21-19)

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**Tribunal member:** Pierre Lafontaine

**Type of hearing:** Teleconference  
**Hearing date:** October 12, 2021  
**Hearing participants:** Appellant

**Decision date:** October 20, 2021  
**File number:** AD-21-254

## Decision

[1] The appeal is dismissed.

## Overview

[2] The Appellant (Claimant) worked as a teacher on a reserve in a northern community. During a school break, she travelled outside of the community for a medical appointment. She returned to work immediately after her return to the community. Other teachers criticized her decision to return to work without first self-isolating. They accused her of breaking the community's health guidelines. They also accused her of putting the community at risk of a Covid-19 outbreak. The Claimant quit her job and applied for employment Insurance benefits.

[3] The Respondent (Commission) looked at the Claimant's reasons for leaving her job. The Commission decided that she voluntarily left her job without just cause and disqualified her from receiving benefits. Upon reconsideration, the Commission maintained its initial decision. The Claimant appealed the reconsideration decision to the General Division.

[4] The General Division found that the Claimant showed that there was harassment and bullying in her workplace. However, it found that the Claimant had other reasonable alternatives to leaving, namely contacting her union representative or requesting a medical leave. The General Division concluded that the Claimant did not have just cause to leave her employment.

[5] Leave to appeal was granted to the Claimant. She submits that the General Division ignored evidence and made an error in law when it concluded she had other reasonable alternatives to leaving her employment.

[6] I must decide whether the General Division made an error in fact or in law when it concluded the Claimant had other reasonable alternatives to leaving her employment?

[7] I am dismissing the Claimant's appeal.

## Issue

[8] Did the General Division make an error in fact or in law when it concluded that the Claimant had other reasonable alternatives to leaving her employment?

## Analysis

### Appeal Division's mandate

[9] The Federal Court of Appeal has determined that when the Appeal Division hears appeals pursuant to section 58(1) of the *Department of Employment and Social Development Act* (DESD Act), the mandate of the Appeal Division is conferred to it by sections 55 to 69 of that Act.<sup>1</sup>

[10] The Appeal Division acts as an administrative appeal tribunal for decisions rendered by the General Division and does not exercise a superintending power similar to that exercised by a higher court.<sup>2</sup>

[11] Therefore, unless the General Division failed to observe a principle of natural justice, erred in law, based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it, I must dismiss the appeal.

### **Did the General Division make an error in fact or in law when it concluded that the Claimant had other reasonable alternatives to leaving her employment?**

[12] The Claimant puts forward that the General Division ignored evidence and made an error in law when it concluded that she had other reasonable alternatives to leaving her employment.

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<sup>1</sup> *Canada (Attorney general) v Jean*, 2015 FCA 242; *Maunder v Canada (Attorney general)*, 2015 FCA 274.

<sup>2</sup> *Idem*.

[13] The General Division had to determine whether the Claimant had just cause to voluntarily leave her employment. This must be determined **at the time she left.**

[14] Whether one had just cause to voluntarily leave an employment depends on whether he had no reasonable alternative to leaving having regard to all the circumstances.

[15] The General Division found that the Claimant showed that there was harassment and bullying in her workplace. However, it found that the Claimant had other reasonable alternatives to leaving, namely contacting her union representative or requesting a medical leave. The General Division concluded that the Claimant did not have just cause to leave her employment.

[16] The Claimant puts forward that the General Division ignored the evidence that nobody at work would acknowledge her concerns. Furthermore, the union representative was not available or unknown at the time she decided to leave. She submits that she did not receive any help from school management and her working colleagues to find her union representative.

[17] In her application for reconsideration, the Claimant states that she went home after work and messaged the principal to tell her she felt threatened and that she was sending her resignation to Human Resources (HR). She emailed HR the same day to tender her resignation. The next day, she called HR to inquire on the name of the union representative.<sup>3</sup>

[18] In an email dated October 21, 2020, one week after the Claimant's resignation, the union representative stated that the Claimant's resignation took away a lot of options and that it did not appear the employer had the opportunity to resolve the matter prior to her resignation.<sup>4</sup>

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<sup>3</sup> See GD3-40 to GD3-43.

<sup>4</sup> See GD3-49.

[19] Case law has constantly held that a claimant who is dissatisfied with their working conditions must attempt to settle the issues with the employer. They must also discuss health concerns with the employer prior to leaving.

[20] The evidence shows that the Claimant did neither. She left her job suddenly without really attempting to discuss issues with her employer in order to resolve the matter.

[21] I find that the General Division did not make an error when it determined that the Claimant had other reasonable alternatives to leaving her job when she did, namely contacting her union representative or requesting a medical leave.

[22] The preponderant evidence supports the General Division's conclusion that the Claimant did not show just cause under the law for leaving her job when she did.

[23] Therefore, I have no choice but to dismiss the Claimant's appeal.

## **Conclusion**

[24] The appeal is dismissed.

Pierre Lafontaine  
Member, Appeal Division