



Citation: *PI v Canada Employment Insurance Commission*, 2021 SST 893

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

Decision

Appellant: P. I.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (432653) dated September 1, 2021 (issued by Service Canada)

Tribunal member: Sylvie Charron
Type of hearing: Teleconference
Hearing date: November 24, 2021
Hearing participant: Appellant

Decision date: December 1, 2021
File number: GE-21-2025

Decision

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

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

Overview

[3] The Appellant left her job on May 5, 2021 to go visit family; she applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that she voluntarily took a leave of absence from her job without just cause, so it wasn't able to pay her benefits.

[4] I must decide whether the Appellant has proven that she had no reasonable alternative to leaving her job when she did.

[5] The Commission says that the Appellant could have simply stayed on the job and not taken a vacation to visit family, as there was no urgent need to do so.

[6] The Appellant disagrees and states that some of her in-laws were sick and she and her husband decided to go out of province to visit them. She left with her husband to visit family. She agrees that no one was critically ill in the family.

Matter I have to consider first

The Appellant asked me to adjourn (that is, pause) the appeal so that an interpreter could be retained.

[7] After the Notice of Hearing was sent to the Appellant, she requested the services of an interpreter at the hearing. I agreed to a short postponement of the hearing until an interpreter could be secured.

[8] The hearing proceeded on the new date; the interpreter attended as scheduled.

Issue

[9] Is the Appellant disqualified from receiving benefits because she voluntarily took a leave of absence from her job without just cause?

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

Analysis

The parties agree that the Appellant voluntarily left

[11] I accept that the Appellant voluntarily left her job for a vacation out of province. The Appellant agrees that she left on May 5, 2021, and that her employer had agreed to this. I see no evidence to contradict this.

The parties don't agree that the Appellant had just cause

[12] The parties don't agree that the Appellant had just cause for voluntarily taking a leave of absence from her job when she did.

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

[14] 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 leaving your job when you did. It says that you have to consider all the circumstances.²

[15] It is up to the Appellant to prove that she had just cause.³ 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 her only reasonable option was to take a leave of absence when she did. When

¹ Section 30 of the *Employment Insurance Act* (Act) explains this.

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

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

I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant took a leave of absence.

[16] The Appellant says that she left her job after getting approval from her employer because she and her husband had decided that a visit to the in-laws out of province was necessary. The Appellant says that she had no reasonable alternative to leaving at that time because her mother-in-law was doing poorly after her husband passed away. As well, one of her daughter-in-law's sons was ill, and her husband and she wanted to visit.(GD3-23)

[17] On another occasion, the Appellant stated to the Commission that she and her husband wanted to visit with her husband's uncle, who was ill. (GD3-26)

[18] The Appellant confirms that no one was deathly ill; no one was hospitalized. The purpose of the trip was to visit family. (GD3-23)

[19] The parties agree that once the Appellant got to her destination, she fell ill with Covid-19. This ultimately prevented her from visiting with the family as planned because she had to quarantine; it also delayed her return to work until June 1, 2021.

[20] The Commission says that the Appellant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says that the Appellant could have simply not taken a leave of absence and remain on the job, as there was no urgency to visit the relatives.

[21] I find that the Appellant has not proven just cause for taking a leave of absence when she did. My reasons follow.

[22] The Appellant left for a vacation; there was no emergency at the time she did so. While I understand that the Appellant wanted to accompany her husband, and she had obtained the permission of her employer, the Employment Insurance Act (the Act) is

clear that a period of leave without just cause will lead to a disentitlement from benefits until one goes back to work.⁴

[23] The Appellant has failed to show that there was no reasonable alternative to leaving when she did.

[24] I am aware that once she got to her vacation destination, the Appellant contracted Covid-19. This meant that in effect, she did not get to visit the family. While I sympathize with the Appellant, this does not affect my decision, as this happened after the Appellant actually left for her planned vacation.

Conclusion

[25] I find that the Appellant is disqualified from receiving benefits.

[26] This means that the appeal is dismissed.

Sylvie Charron
Member, General Division – Employment Insurance Section

⁴ See s. 32 of the *Act*