



[TRANSLATION]

Citation: *SG v Canada Employment Insurance Commission*, 2022 SST 102

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

Decision

Appellant: S. G.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (438272) dated November 19, 2021 (issued by Service Canada)

Tribunal member: Leanne Bourassa
Type of hearing: Videoconference
Hearing date: December 22, 2021
Hearing participant: Appellant
Decision date: January 5, 2022
File number: GE-21-2387

Decision

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

[2] The Claimant, S. G., hasn't shown just cause (in other words, a reason the law accepts) for leaving his job when he did. He 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] After being on sick leave, the Claimant left his job and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it wasn'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 the Claimant voluntarily put himself out of a job by choosing to take a full-time training program. He could have asked his employer whether it would agree to change his status from full-time to part-time before deciding to enrol in a training program.

[6] The Claimant disagrees. He says he had no choice but to leave his job, since he felt that his employer didn't want to deal with him as an employee.

Matter I have to consider first

I will accept the documents sent in after the hearing

[7] At the hearing, the Claimant mentioned a medical report his doctor had prepared for the employer's insurer, recommending a gradual return to work from sick leave. I gave him five days to submit this document to the Tribunal if he found it relevant. The

Commission was invited to comment on the document but chose not to. I will talk about this document later in the decision.

Issue

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

[9] 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

[10] I accept that the Claimant voluntarily left his job. The Claimant agrees that he didn't go back to work after his sick leave ended on July 29, 2021. I see no evidence to contradict this.

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

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

[12] 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 leaving a job isn't enough to prove just cause.

[13] 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.²

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.

[14] It is up to the Claimant to prove that he had just cause.³ 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. 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 Claimant didn't leave his job to go to school

[15] A reading of the documentation submitted by the parties suggests that the Claimant left his job to take a training program. His application for benefits mentions leaving to go to school. He talked about the program during his conversations with the Commission. He even gave the Commission details about his schedule, saying that he was taking the courses full-time.

[16] However, at the hearing, the Claimant admitted that, despite discussing them with the Commission, he had never taken training courses. He actually enrolled in a program of study because he was hoping that, by showing a course schedule, his employer could approve changing his status to part-time.

[17] I prefer the Claimant's testimony at the hearing over his previous comments noted by the Commission. His testimony was candid, even when it was against his own interests. He admitted to giving the Commission incorrect information because of a consistent belief that his former employer was listening. His goal was to convince the Commission and his former employer that he was entitled to part-time employee status because he was taking a training program.

[18] The Claimant says that he left his job because his employer didn't want to grant his request to gradually go back to work from sick leave. The employer didn't want to let him change his employee status to part-time employee status either. The Claimant says that he had no reasonable alternative to leaving at that time because he was unable to go back to work full-time.

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

[19] The Commission says that the Claimant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Claimant could have waited until his employer granted his request for a part-time schedule before registering for a course with a schedule similar to his work schedule.

[20] The truth is that the Claimant enrolled in a training program without really intending to attend it. He thought that, by having proof of enrolment and a course schedule, his employer would be forced to let him change his status to become a part-time employee. Then, he could have chosen his hours and gotten the gradual return he wanted.

[21] So, I find that the Claimant left his job because he was unhappy with his employer's refusal to let him change his status to become a part-time employee, even when he showed a full-time course schedule. He thought that his employer didn't really want to deal with him as an employee, so he left his job.

The Claimant had reasonable alternatives to leaving

[22] To have just cause for voluntarily leaving your job, you need to have no reasonable alternative to leaving.

[23] I find that the Claimant had reasonable alternatives when he left.

[24] I accept that, when he decided to leave his job, the Claimant was about to go back to work full-time after a period of sick leave related to major depression. He says he didn't feel he could handle the stress of his job and a very busy shift. He wanted to be a part-time employee to have more scheduling options. He thought that, after two years with his employer, it should allow this change.

[25] The employer's insurer had refused to cover his sick leave. Because of this, the Claimant says he wasn't entitled to a gradual return to work.

[26] The Claimant thought that he could go back part-time to have a more flexible schedule. After talking with his supervisor, he realized he could not have part-time

employee status without providing a school schedule. So, he submitted a course schedule, but his employer refused a change of status for [translation] “business reasons.”

[27] The Commission says that it was within the employer’s discretion to grant or deny the Claimant’s request for a change of status. It says that the Claimant could have waited until his employer granted his request to change his status for a part-time position before registering for a course. Choosing to continue working and give up his studies was a reasonable alternative for the Claimant.

[28] The Claimant says that he didn’t actually attend a full-time training program. So, a scheduling conflict wasn’t really the issue. After his sick leave, the Claimant had the option of going back to work full-time. He was disappointed with his employer’s decision to deny him a gradual return to work or part-time employee status, but he had the option of going back to work.

[29] The Claimant says that his doctor could have given him another four weeks of sick leave because he was still adjusting to new treatment. This didn’t happen because it all seemed pointless after the employer’s insurer had denied coverage. Still, it was a reasonable alternative that the Claimant could have considered instead of just leaving his job.

[30] After the hearing, the Claimant submitted a document his doctor had prepared for the employer’s insurer. Although I accept this document, I note that it is dated August 12, 2021, after the Claimant was supposed to go back to work from his sick leave from July 9 to 31, 2021. I don’t see a recommendation from the doctor to extend the sick leave. If still unable to go back to work, the Claimant could have asked his doctor to extend his leave, instead of leaving his job.

[31] I understand that the Claimant was unhappy with how his employer handled his case. He says he is upset that his employer didn’t give him another option besides going back to work full-time. Unfortunately, I find that, before ending his employment, the Claimant didn’t consider any reasonable alternatives apart from going back to work

part-time. He could have gone back full-time until he found another job, or he could have tried to extend his sick leave.

Conclusion

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

[33] This means that the appeal is dismissed.

Leanne Bourassa
Member, General Division – Employment Insurance Section