



Citation: *AL v Canada Employment Insurance Commission*, 2022 SST 164

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

# **Decision**

**Appellant (Claimant):** A. L.  
**Respondent (Commission):** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (444432) dated December 30, 2021, and issued by Service Canada

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**Tribunal member:** Gerry McCarthy  
**Type of hearing:** Teleconference  
**Hearing date:** February 7, 2022  
**Hearing participants:** Appellant  
  
**Decision date:** February 8, 2022  
**File number:** GE-22-139

## **DECISION**

[1] The appeal is allowed. The Claimant has shown just cause because he had no reasonable alternatives to leaving his job when he did. This means he is not disqualified from receiving benefits.

## **OVERVIEW**

[2] The Claimant left his job as a car detailer at "X" on September 11, 2020. The Claimant first applied for the Canadian Emergency Response Benefit on March 23, 2020, and his application was then used to establish an initial claim for regular Employment Insurance (EI) benefits on October 4, 2020.

[3] The Commission looked at the Claimant's reasons for leaving his job and decided he voluntarily left his employment without just cause, so they were unable to pay him benefits.

[4] The Commission says the Claimant did not prove that staying employed was not a reasonable alternative. The Claimant disagrees and states he was verbally abused by his supervisor and had to leave his job for his own personal welfare and health.

## **ISSUE**

[5] I must decide whether the Claimant is disqualified from being paid benefits, because he voluntarily left his job without just cause. To do this, I must first address the Claimant's voluntary leaving. I then have to decide whether the Claimant had just cause for leaving.

## ANALYSIS

### **There is no dispute that the Claimant voluntarily left his job**

[6] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit (in other words, voluntarily left the job) on September 11, 2020. I see no evidence to contradict this.

### **The parties dispute that the Claimant had just cause for voluntarily leaving**

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

[8] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you did not have just cause.<sup>1</sup> Having a good reason for leaving a job is not enough to prove just cause. You have just cause to leave if, considering all of the circumstances, you had no reasonable alternatives to quitting your job when you did.<sup>2</sup> It is up to the Claimant to prove this.<sup>3</sup> The Claimant has to show that it is more likely than not that he had no reasonable alternatives but to leave when he did.<sup>4</sup>

[9] When I decide that question, I have to look at all of the circumstances that existed when the Claimant quit. The circumstances I have to look at include some set by law.<sup>5</sup> After I decide which circumstances apply to the Claimant, he then has to show that there was no reasonable alternative to leaving at that time.<sup>6</sup>

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<sup>1</sup> This is set out at s 30 of the *Employment Insurance Act*.

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

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

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

<sup>5</sup> Paragraph 29(c) of the *Employment Insurance Act*.

<sup>6</sup> Paragraph 29(c) of the *Employment Insurance Act*.

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

[10] The Claimant states that one of the circumstances set out in the law does apply in his case. The Claimant cites the circumstance of antagonism with a supervisor if the claimant was not primarily responsible for the antagonism.

[11] The Claimant testified that he was verbally abused by his supervisor (R. A.) on numerous occasions. The Claimant specifically testified that R. A. told him “he was going to get someone to hurt me.”

[12] The Commission raised the matter of the alleged abused with the Claimant’s employer (R. A./Detailing Manager) when they spoke to him on December 20, 2021. R. A. indicated that he could not recall who the Claimant was, but denied ever subjecting an employee to abuse (GD3-23).

[13] I prefer the Claimant’s testimony about being antagonized (and even threatened) by R. A., because his statements were consistent and detailed. Furthermore, R. A.’s response to the Commission that he couldn’t remember the Claimant wasn’t plausible given that he hired the Claimant and had direct interaction with him in the workplace.

[14] The circumstances that apply when the Claimant quit work were antagonism with a supervisor if the claimant was not primarily responsible for the antagonism.

## **No reasonable alternative**

[15] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did. The Claimant says that he did not have any, because his supervisor (R. A.) was antagonizing him to the extent that his personal welfare and health were affected.

[16] The Commission disagrees and says the Claimant could have maintained his employment while he looked for other work. The Commission further says the

Claimant could have discussed the issue with his employer's Human Resources department or refused the work and made a formal complaint with the Ontario Ministry of Labour.

[17] I find the Claimant had no reasonable alternative to leaving when he did for the following reasons:

[18] First: The Claimant testified he spoke to the employer (A./Owner) and his son (A./Owner) about the antagonism from his supervisor and was advised they would see what they could do. The Claimant testified that he waited two-to-three weeks and when nothing was done decided he would submit his resignation. I realize the Commission submitted the Claimant could have maintained his job and discussed the matter with the Human Resources department or the Ministry of Labour. Nevertheless, the Claimant attempted to resolve the problem when he went he spoke to the owner and his son. Considering the Claimant spoke directly to the owners, the prospect of launching a formal complaint to the Ministry of Labour was not a reasonable alternative under the circumstances.

[19] Second: The Claimant submitted a resignation (with a two-week notice) to his supervisor (R. A.), but testified the supervisor threw the letter back at him and told him to leave. I recognize the Commission submitted the Claimant could have maintained his job while he looked for other work. However, the Claimant provided his supervisor two-weeks notice in good faith and hoped to secure other employment before the notice period ended. In short, the Claimant wasn't provided a chance to maintain his employment while he tried to secure other work.

### **Additional Submissions from the Commission**

[20] I realize the Commission submitted that they understood the Claimant was going through a difficult situation. Still, the Commission maintained the Claimant did not prove that staying employed was not a reasonable alternative. However, the circumstances in this case are important to consider. For example, the

Claimant was not only antagonized by his supervisor but at one point was specifically threatened. The Claimant testified that the antagonism from his supervisor was affecting his personal welfare and health. Under these circumstances, I simply cannot accept the Claimant didn't prove he had no reasonable alternative to leaving in light of the verbal abuse he was subjected to in the workplace by his supervisor.

[21] Considering the circumstance that existed at the time that the Claimant voluntarily left, the Claimant had no reasonable alternative to leaving when he did for the reasons set out above. This means the Claimant did have just cause for leaving his job.

## **CONCLUSION**

[22] I find the Claimant is not disqualified from receiving benefits. This means the appeal is allowed.

*Gerry McCarthy*

Member, General Division - Employment Insurance Section