



[TRANSLATION]

Citation: *IS v Canada Employment Insurance Commission*, 2022 SST 204

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

Decision

Appellant:	I. S.
Respondent:	Canada Employment Insurance Commission
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Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (432780) dated September 15, 2021 (issued by Service Canada)
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Tribunal member:	Manon Sauvé
Type of hearing:	Videoconference
Hearing date:	December 15, 2021
Hearing participant:	Appellant
Decision date:	January 18, 2022
File number:	GE-21-2138

Decision

[1] The appeal is dismissed. The Claimant hasn't shown just cause for leaving his job. He had reasonable alternatives to leaving when he did. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[2] The Claimant received emergency benefits from March 15, 2020, to September 26, 2020. On September 27, 2021, his claim was transferred to the Employment Insurance Commission (Commission). A benefit period was established.

[3] On November 8, 2020, the Claimant voluntarily left his job. He told the Commission that the employer wasn't giving him enough hours to work. He felt that it made more sense to get EI benefits.

[4] The Commission decided to disqualify the Claimant, and it asked him to repay a benefit overpayment of \$15,500.

[5] During the reconsideration, the Claimant said that he had problems with one of the employees and that his work duties had changed. He also left his job to focus on his studies.

[6] The Commission upheld its decision. The Claimant didn't have just cause for leaving his job, and he had reasonable alternatives to leaving when he did.

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

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 quit on November 8, 2020. 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

[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.

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.

– **Reduction in hours**

[15] I understand that the Claimant initially said that he had left his job because the employer had reduced his hours. Also, when he was working, his EI benefits were reduced. So, staying at that job wasn't worth it,⁴ since he was getting less.

[16] In my view, a reduction in hours isn't just cause for leaving. The Claimant testified to working three hours a week. He noticed that his hours were penalizing him in terms of his EI benefits.

[17] At the hearing, the Claimant wanted to clarify that that wasn't his reason for quitting.

[18] I see that the Claimant has changed his version of the facts. The fact is that he made this statement to the Commission spontaneously.

[19] The purpose of the EI system is to temporarily replace the income of a claimant who has lost their job involuntarily. This isn't the case for the Claimant, since he admits that he left his job partly because he was being paid the same by working a few hours or not working.

– **Conflict with a co-worker and studies**

[20] In connection with his reconsideration request, the Claimant mentioned a conflict with a co-worker. He was assigned to other work duties because of the COVID-19 pandemic. But he was unable to perform the kitchen duties properly. This irritated his co-worker. He felt stressed.

[21] According to information from the employer,⁵ the employer suggested that the Claimant change his work schedule to avoid working with the employee he didn't get along with. The Claimant refused because he was available only the day he had to work with that co-worker.

⁴ GD3-13.

⁵ GD3-24.

[22] In my view, that isn't just cause for leaving. The Claimant had other reasonable options. The employer suggested that he change his schedule to avoid interacting with his co-worker. He refused because he was taking university courses. He had to accept his employer's offer or try to resolve the conflict with his co-worker.⁶

[23] In addition, the Claimant turned this offer down to take training that wasn't authorized by the Commission. I draw a parallel between the Claimant's situation and the many Court decisions saying that quitting a job to take training not authorized by the Commission isn't just cause within the meaning of the *Employment Insurance Act*.⁷

[24] Moreover, I place more weight on the Claimant's initial statements about the reasons for his voluntary leaving. He said that he had left his job because it wasn't paying as much or, at least, it was paying the same as EI.⁸

[25] I don't find credible the Claimant's explanations about a fear of potential reprisal from the government or the Commission against his co-worker. These explanations came after the Commission's initial decision. What is more, it seems his employer had offered an alternative, but he turned it down.

[26] In the circumstances, I find that the Claimant didn't have just cause for voluntarily leaving his job. He had reasonable alternatives to leaving when he did. For example, he could have talked to his co-worker or changed his work or course schedule.

Conclusion

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

⁶ *Canada (Attorney General) v White*, 2011 FCA 190 at para 5: "The jurisprudence of this Court imposes an obligation on claimants, in most cases, to attempt to resolve workplace conflicts with an employer, or to demonstrate efforts to seek alternative employment before taking a unilateral decision to quit a job: *Canada (Attorney General) v Hernandez*, 2007 FCA 320; *Canada (Attorney General) v Campeau*, 2006 FCA 376; *Canada (Attorney General) v Murugaiah*, 2008 FCA 10."

⁷ Quitting employment to pursue a course of studies isn't just cause within the meaning of sections 29 and 30 of the Act (*Lakic*, 2013 FCA 4; *King*, 2011 FCA 29; *Macleod*, 2010 FCA [sic].

⁸ *Lévesque*, A-557-06; *Clinique Dentaire O. Bellefleur*, 2008 FCA 13.

[28] This means that the appeal is dismissed.

Manon Sauvé
Member, General Division – Employment Insurance Section