



Citation: *FD v Canada Employment Insurance Commission*, 2022 SST 347

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

Decision

Appellant: F. D.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (450776) dated January 26, 2022 (issued by Service Canada)

Tribunal member: Candace R. Salmon

Type of hearing: Teleconference

Hearing date: April 7, 2022

Hearing participant: Appellant

Decision date: April 7, 2022

File number: GE-22-625

Decision

[1] The appeal is allowed. The Tribunal agrees with the Claimant.

[2] The Claimant has shown that he did not voluntarily leave his job. This means he isn't disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left his job because he was laid off at the end of the summer. He applied for EI benefits. The Canada Employment Insurance Commission (Commission) 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 voluntarily left his job and, if he did, whether he had just cause for leaving.

[5] The Commission says that the Claimant didn't have just cause because he quit his job to go to school and could have remained in the employment.

[6] The Claimant disagrees and states that he did not have a job after August 2021, because he was hired to work part-time while in high school and full-time in the summer of 2021, but was not offered a job after that date. He submits he did not voluntarily leave a job to go to school, but went to school after his job ended.

Issue

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

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

Analysis

Did the Claimant voluntarily leave his job?

[9] The Record of Employment (ROE) shows the Claimant worked from December 21, 2020, until August 27, 2021, in a labour position. The Claimant explained at the

hearing that he was hired to work part-time while in high school, and was given a full-time job in the summer of 2021. He added that the company CEO agreed to hire him full-time for that summer, but he was told his job would end at the end of August 2021. The Claimant wanted to go to school, so he planned to move when his job ended.

[10] The employer submitted an ROE on September 9, 2021. This ROE states the Claimant quit to return to school. A Commission agent contacted the Claimant on September 16, 2021, to ask why his job ended. The notes from that call state that the Claimant said he, “quit his job to return to school.”

[11] At the hearing, the Claimant disputed this record. He submitted that he did not say that he quit his job, but said that his job ended and he was going to school. He added that this was his first interaction with the Commission and he felt it was stressful and he did not know what to say.

[12] The Claimant spoke to another Commission agent on October 21, 2021. In this call, the notes say the Claimant declared that he stopped working because he moved to go to university and could not continue working in the job because it was too far from his university. The notes also say that he felt he had no other choice but to quit his job.

[13] The Claimant states that he did not understand what the Commission agent was trying to find out, and did not know what to say. He reiterated multiple times that his contract had ended and his employer made a mistake, because he did not quit his job. When asked if he could have continued working if he didn't go to school, he stated that he could have stayed if they had a job for him, but the employer did not offer him any employment after August 27, 2021.

[14] The Commission contacted the employer's human resources department on October 21, 2021. The human resources director told the Commission that the Claimant quit his job to go to school.

[15] At the hearing, the Claimant's father was affirmed as a witness. He stated that he believed the human resources director did not know the details of his son's employment because it was arranged with the CEO and the CEO knew that he had only hired the

Claimant to work until the end of August 2021. He pointed to the ROE, stating the employer recognized they made a mistake because they reissued the document.

[16] On October 22, 2021, the employer did reissue the ROE. On this version, issued by a different staff member than the one who completed the first document, it says the Claimant's job ended due to a shortage of work or the end of a contract or season.

[17] When the Claimant spoke to another Commission agent on January 26, 2021, he stated that he stopped working because he was moving to another community to attend university. He stated that he did not receive authorization to quit his job, but was approved to attend school through the NB EI Connect program.

[18] The Claimant submits that while he did not explain himself properly, it is clear that his employment ended because it was the end of his contract. While he was planning to go to school throughout the period he was working, he did not quit his job because the CEO of the employer company only agreed to employ him until the end of August 2021. The Claimant submits that he felt stress and pressure from the Commission and didn't know what to say.

[19] The Commission found the Claimant moved to attend university, which meant he caused the separation from his employment. It noted that the employer changed the code on the ROE the day after the Claimant received a negative decision from the Commission. The Claimant stated in the request for reconsideration that he called his employer the day after he received the Commission's decision, and the employer confirmed the first ROE contained a mistake on their end. He submitted that the employer said it would fix the mistake and re-file the ROE. The Claimant submitted he thought the Commission's decision would be reversed, after the employer fixed the ROE.

[20] In this case, there is evidence supporting that the Claimant quit his job, and that his contract ended. It is clear he planned to go to school from the outset of his job, but I must determine whether he voluntarily left this position, meaning he chose to leave it or did something that caused the end of his employment relationship.

[21] I accept the Claimant's testimony that he was hired to work full-time in the summer of 2021 and his job was scheduled to end at that time. The Claimant said he did not have an offer to remain in the employment. While he described himself as leaving his job to go to school, he did not intend to mean that he quit his job—simply that it ended and he was planning to go to school. This is further supported by the employer changing the ROE.

[22] The Claimant told the Commission during reconsideration that the employer admitted that it made a mistake, so it immediately reissued the ROE when the Claimant advised of the issue he was experiencing. I have no reason to believe the employer was dishonest in amending the ROE, and find the ROE is strong evidence supporting that the Claimant stopped working due to the end of his contract or season. When weighed with the other evidence, including Commission agent notes from phone conversations and the Claimant's submissions, I find the ROE tips the balance of probabilities in the Claimant's favour. Therefore, I find that the Claimant's job ended due to a shortage of work or the end of a season or contract.

[23] Since the Claimant's job was no longer available to him due to the end of a contract, I find he did not voluntarily leave his job because it did not remain available to him.

Referral to school

[24] Sometimes, the Commission (or a program the Commission authorizes) refers people to school. In this case, the Claimant was referred to his university program through the NB EI Connect program. He was referred as of October 24, 2021.

[25] It was clear at the hearing that both the Claimant and his father did not entirely understand the EI Connect program, or how it affects EI benefits. I stated that a referral to training generally means the Claimant will be deemed available for work, so they are able to obtain EI benefits while in school, presuming they meet all other legal requirements.

[26] In this case, the Claimant was found to have voluntarily left his job so he was disqualified from receiving EI benefits. I am allowing the appeal of that finding, because I

find the evidence supports that the Claimant, on a balance of probabilities, stopped working due to the end of a contract or season. This means the Claimant is not disqualified from receiving EI benefits, because he did not voluntarily leave his job. The Commission will have to determine the start date of those benefits based on his availability in light of the referral by the EI Connect program.

Conclusion

[27] I find that the Claimant isn't disqualified from receiving EI benefits.

[28] This means the appeal is allowed.

Candace R. Salmon
Member, General Division – Employment Insurance Section