



Citation: *PB v Canada Employment Insurance Commission*, 2022 SST 255

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant (Claimant): P. B.

Respondent (Commission): Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (438483) dated November 12, 2021 (issued by Service Canada)

Tribunal member: Gerry McCarthy

Type of hearing: Videoconference

Hearing date: March 22, 2022

Hearing participant: Appellant

Decision date: March 23, 2022

File number: GE-21-2444

Decision

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

[2] The Claimant has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Claimant had just cause because she had no reasonable alternative to leaving. This means she isn't disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left her job on August 13, 2021, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

[4] I have to decide whether the Claimant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says the Claimant could have attempted to resolve workplace conflicts with her employer instead of leaving her job when she did.

[6] The Claimant disagrees and says the workplace environment was seriously threatening her mental health.

Issue

[7] Is the Claimant disqualified from receiving benefits because she voluntarily left her job without just cause?

[8] 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

[9] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit on August 13, 2021. I see no evidence to contradict this.

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

[10] The parties don't agree that the Claimant had just cause for voluntarily leaving her job when she did.

[11] 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.

[12] 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

[13] It is up to the Claimant to prove that she had just cause. 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 quit.³

[14] 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 law sets out some of the circumstances I have to look at.⁴

[15] After I decide which circumstances apply to the Claimant, she then has to show that she had no reasonable alternative to leaving at that time.⁵

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 4.

⁴ See section 29(c) of the Act.

⁵ See section 29(c) of the Act.

The circumstances that existed when the Claimant quit

[16] The Claimant says one of the circumstances set out in the law applies in her case. Specifically, the Claimant says that workplace conditions constituted a danger to her health.

[17] The Claimant testified that the lack of management from her supervisor (“S.”) and the toxic work environment seriously threatened her mental health. For example, the Claimant explained that her supervisor was unavailable for in-person meetings and would send offensive and insulting text messages to staff. Furthermore, the Claimant testified she wasn’t fully trained for her position as a waiter. The Claimant also testified that her request for a staff meeting never materialized.

[18] I accept as credible the Claimant’s testimony on her workplace conditions, because her statements were detailed, forthright, and consistent.

[19] The Claimant also provided a medical report from February 18, 2021, that diagnosed her with Generalized Anxiety Disorder (GD8). I realize the report was issued prior to the Claimant working for the employer (“X”). Nevertheless, the Claimant’s medical condition cannot be ignored when examining the circumstances that existed when she quit.

[20] In summary, the circumstance that existed when the Claimant quit was that the workplace constituted a danger to her mental health.

The Claimant had no reasonable alternative

[21] I must now look at whether the Claimant had no reasonable alternative to leaving her job when she did.

[22] The Claimant says she had no reasonable alternative because the workplace environment was seriously threatening her mental health.

[23] The Commission disagrees and says the Claimant could have attempted to resolve the situation directly with her manager by text or by requesting an in-person

meeting. The Commission further says a reasonable alternative would have been for the Claimant to seek medical advice (even from a walk-in clinic).

[24] I find the Claimant had no reasonable alternative for the following reasons:

[25] First: The Claimant's workplace environment was such that her mental health was in serious jeopardy if she didn't leave. I realize the Commission submitted that the Claimant could have sought medical advice even from a walk-in clinic. However, the Claimant had only moved back to Nova Scotia in July 2021 and didn't have a family doctor to attend. Furthermore, the Claimant explained that a walk-in clinic wouldn't have her background medical history on file. Under the circumstances, I accept that attending a walk-in clinic for the Claimant was not a reasonable alternative.

[26] Second: The Claimant did attempt to arrange an in-person meeting with her supervisor ("S."), but nothing materialized. I realize the Commission submitted that it would have been reasonable for the Claimant to attempt to resolve the situation directly with her manager by requesting an in-person meeting. However, I accept the Claimant's testimony that she did attempt to arrange an in-person meeting with her supervisor but nothing materialized.

[27] Third: The Claimant wasn't able to continue working until she secured another job, because her mental health was in jeopardy. I realize the Commission submitted that a reasonable alternative would have been for the Claimant to seek alternative employment before making a unilateral decision to quit her job. However, the Claimant's mental health was in jeopardy if she remained in the job. In short, the Claimant's workplace environment caused enormous stress for the Claimant and her mental health was threatened if she didn't leave when she did.

Additional Submissions from the Commission

[28] I recognize the Commission further submitted that the medical report from Dr. Gerber did not attest to the Claimant's status of health at the time she left her employment, and did not indicate she couldn't work as a waitress (GD8). However, the report from Dr. Gerber (dated February 18, 2021) specifically indicated the Claimant's

prognosis was “extremely guarded.” Dr. Gerber further wrote that there were “real concerns” on how the Claimant’s Haemochromatosis would affect her both physically and emotionally. Under these circumstances, I will accept the Claimant’s concern for her mental health was legitimate.

[29] Considering the circumstances that existed when the Claimant quit, the Claimant had no reasonable alternative to leaving when she did, for the reasons set out above.

[30] This means the Claimant had just cause for leaving her job.

Conclusion

[31] I find the Claimant isn’t disqualified from receiving benefits.

[32] This means that the appeal is allowed.

Gerry McCarthy

Member, General Division – Employment Insurance Section