



Citation: *SN v Canada Employment Insurance Commission*, 2022 SST 415

## **Social Security Tribunal of Canada Appeal Division**

# **Decision**

**Appellant:** S. N.

**Respondent:** Canada Employment Insurance Commission  
**Representative:** L. LaViolette

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**Decision under appeal:** General Division decision dated January 25, 2022  
(GE-21-2452 and GE-21-2453)

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**Tribunal member:** Jude Samson

**Type of hearing:** On the Record

**Decision date:** May 25, 2022

**File number:** AD-22-132 and AD-22-134

## Decision

[1] With the agreement of the parties, I'm allowing the appeal in part and cancelling the Claimant's disqualification from receiving Employment Insurance (EI) benefits.

## Overview

[2] S. N. is the Claimant in this case. In December 2020, his first employer laid him off because of the COVID-19 pandemic.

[3] In January 2021, he found work with a second employer. But he quickly quit after learning that he needed to do a physically demanding type of training. The Claimant said that he wasn't aware he would need to do this training, and that a medical condition prevented him from participating.

[4] In July 2021, the Claimant's first employer called him back to work. Shortly after returning to work, the Claimant went on a leave of absence.

[5] When he wasn't working, the Claimant collected Employment Insurance (EI) regular benefits. Later, however, the Canada Employment Insurance Commission (Commission) reassessed the Claimant's file.<sup>1</sup> It concluded that the Claimant wasn't entitled to most of the benefits he had received because he:

- quit his job with the second employer; and
- took a voluntary leave of absence from his job with the first employer.

[6] Because the Claimant quit a job without just cause, the Commission **disqualified** him from receiving EI benefits.<sup>2</sup> And because he took a voluntary leave of absence without just cause, the Commission **disentitled** him from receiving EI benefits while he was on leave.

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<sup>1</sup> Service Canada delivers the EI program for the Commission.

<sup>2</sup> In this context, "just cause" has a very specific meaning. It's defined in section 29(c) of the *Employment Insurance Act* (EI Act). Also, see sections 30 and 32 of the EI Act, which talk about people being disqualified and disentitled from receiving EI benefits.

[7] The Claimant appealed the Commission's decisions to the General Division but it dismissed his appeals.

[8] The Claimant is now appealing the General Division decision to the Tribunal's Appeal Division. After I gave the Claimant leave (permission) to appeal, the parties agreed on the outcome of the appeal.

## **The parties agree on the outcome of the appeal**

[9] The agreement between the parties can be summarized as follows:<sup>3</sup>

- The General Division based its decision on an important error about the facts of the case.
- In the circumstances, I should allow the appeal and give the decision the General Division should have given.
- The Claimant had no reasonable alternative to quitting his second job when he did. As a result, I should cancel his disqualification from receiving EI benefits.
- The Claimant isn't disputing that he voluntarily, and without just cause, took a leave of absence from his first employer. As a result, I should confirm that the Claimant was disentitled from receiving EI benefits between July 12, 2021, and September 30, 2021.

## **I accept the proposed outcome**

[10] In its decision, the General Division found the Claimant's evidence to be credible. It also accepted that the Claimant had a medical condition that prevented him from doing strenuous activities.<sup>4</sup>

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<sup>3</sup> The parties' agreement is found in documents AD1B to AD1G.

<sup>4</sup> See paragraphs 22, 24 and 32 of the General Division decision.

[11] However, the General Division found that the Claimant should have tried the physically demanding activities that the second employer was demanding of him. Specifically, the General Division noted that the Claimant hadn't provided any medical evidence to support his claims.

[12] The Commission accepts that these findings are contradictory.<sup>5</sup> The General Division couldn't, on the one hand, accept the Claimant's evidence about his medical condition and, on the other hand, find that he should try to do physically demanding activities.

[13] I agree. The General Division based its decision on contradictory findings.<sup>6</sup> This allows me to intervene in this case and to give the decision that the General Division should have given.<sup>7</sup>

[14] In this case, the Claimant refused to do part of the training that the second employer demanded of him. The Claimant told his manager about his medical condition, but his manager refused to accommodate him. In the circumstances, the parties agree that the Claimant had no reasonable alternative to leaving his job when he did.

[15] As a result, I'm allowing the appeal in part and cancelling the **disqualification** that the Commission imposed against the Claimant.

[16] However, the Claimant accepts that he voluntarily, and without just cause, took a leave of absence from the first employer. As a result, the parties agree that the Claimant **wasn't entitled** to receive EI benefits from July 12, 2021, to September 30, 2021. I'm confirming this part of the General Division decision.

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<sup>5</sup> For example, in *Brisebois v Canada (Employment and Immigration Commission)*, 1997 CanLII 5975, the Federal Court of Appeal found that, when a person's credibility is unchallenged, a medical certificate adds nothing to their testimony.

<sup>6</sup> This is a relevant error under section 58(1)(c) of the *Department of Employment and Social Development Act* (DESD Act).

<sup>7</sup> Section 59(1) of the DESD Act gives me this power.

## **Conclusion**

[17] The appeal is allowed in part, and in keeping with the parties' agreement.

Jude Samson  
Member, Appeal Division