



Citation: *TD v Canada Employment Insurance Commission*, 2022 SST 441

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

## Decision

**Appellant:** T. D.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (421442) dated May 11, 2021 (issued by Service Canada)

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**Tribunal member:** Leanne Bourassa

**Type of hearing:** Teleconference

**Hearing date:** March 23, 2022

**Hearing participants:** Appellant

**Decision date:** March 23, 2022

**File number:** GE-21-1067

## **Decision**

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant, T. D.

[2] The Claimant hasn't shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Claimant didn't have just cause because he had reasonable alternatives to leaving. This means he isn't disqualified from receiving Employment Insurance (EI) benefits.

## **Overview**

[3] The Claimant left his job with Loblaws/Maxi on February 18, 2021, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It 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 must decide whether the Claimant has proven that he had no reasonable alternative to leaving his job.

[5] The Commission says that the Claimant could have explained his understanding to his employer and paid attention to his break time afterwards. He could also have gone to head office with his issues before leaving his job.

[6] The Claimant disagrees and states that he couldn't keep working in that environment and he shouldn't be punished for his employer's actions.

## **Preliminary Matter**

### **There was a long delay to hear the Claimant's appeal**

[7] The Claimant started the hearing by expressing that he was frustrated that it has taken so long for this matter to be resolved.

[8] Although the Tribunal strives to act as quickly as possible, in some cases delays are unavoidable. In the present case, the Claimant originally asked to have an in person

hearing. Unfortunately, because of the global COVID-19 pandemic, hearings in person were not available. It was only on March 1, 2022 that the Claimant told the Tribunal that he would now accept a hearing by telephone and a hearing was scheduled as soon as possible.

## **Issue**

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

[10] 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**

[11] I accept that the Claimant voluntarily left his job. The Claimant agrees that he quit on February 18, 2021. He submitted a letter of resignation that he wrote himself. I see no evidence to contradict this.

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

[12] The parties don't agree that the Claimant had just cause for voluntarily leaving his job when he did.

[13] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[14] 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.<sup>2</sup>

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<sup>1</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

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

[15] It is up to the Claimant to prove that he had just cause.<sup>3</sup> 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.

[16] The Claimant says that he left his job because he was falsely accused of theft of time by a supervisor, which he found to be incredibly insulting. The Claimant says that he had no reasonable alternative to leaving at that time because he could not be expected to continue working in that environment.

[17] The Commission says that the Claimant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Claimant could have explained to the supervisor that he thought he was entitled to one and half hours of breaks a day and didn't realize it was a designated lunch hour and two 15 minute breaks and then paid attention to his break time after that. He also had the option of going to head office before resigning.

[18] I find that the Claimant had many alternatives available to him other than leaving his job. Because of that, he did not have just cause for leaving his job.

[19] The Claimant chose to leave his job because he felt insulted by the treatment he believed he was getting from one particular supervisor. First he believes that she had been laughing at him with another worker. Second, he says she sided with another employee over him when she believed that he had taken too much time on break.

[20] Before leaving a job, a claimant who wants to get employment insurance has to show that they did all they could to resolve any conflicts with a supervisor or other employee. The Claimant in this case has not done that.

[21] The Claimant said that he didn't hear what the supervisor was laughing about, only that she was laughing with another colleague right after she had told him not to sit while stocking the lower shelves. He could have resolved that situation by talking with

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

the supervisor and confirming what she was laughing about instead of assuming it was at his expense.

[22] With respect to the situation involving the Claimant being told he had taken too long a break, I find that the Claimant had alternatives to leaving. First, he could have simply accepted the supervisor's feedback and gone about his work. He could also have confirmed the rules around his assigned breaks. Finally, he could have learned how to use the punch card that he was given the next day and ensured he didn't make the same mistake again.

[23] The Claimant says that he could not continue working because the employer accused him of theft by stealing time. He also said that it was an employee who talked to the supervisor who said that he was stealing time. Both the fact that a co-worker told the supervisor he was late for work without talking to him first, and the fact that he thinks the supervisor accused him of stealing time made the workplace intolerable to him.

[24] I note that in the Employer's statements to the Commission, they said that they had explained to the Claimant that the late return from breaks was "like stealing time from the company". She denies accusing the Claimant of stealing. She also confirmed that the Claimant did not face any disciplinary action for this issue. It was the Claimant who left the job.

[25] The Claimant confirmed that after he had been told by the supervisor that his break was too long, he went and confronted the co-worker who had reported him and called him a baby for not talking to him directly. When the supervisor refused to demand a letter of apology from the co-worker, the Claimant sat down to write his letter of resignation.

[26] The Claimant was clearly insulted, but I do not see that there was any obligation for him to leave his job less than 24 hours after the first discussion with the supervisor. He had the alternative of cooling down and discussing his frustrations with a supervisor he respected and trying to find a solution before deciding to leave his job voluntarily and become unemployed.

[27] I also note that the Claimant did approach his union representative to try and file a grievance. The representative told him to talk to head office. The Claimant was not clear on whether his call to head office was before or after he gave his letter of resignation. He could have taken the time to take this step and wait for the outcome before leaving his job.

[28] Finally, the Claimant has not convinced me that his workplace was so intolerable that he could not have stayed there until he found another job.

[29] Employment Insurance benefits are designed to support those who become unemployed through no fault of their own.<sup>4</sup> In this case, it was the Claimant who decided to leave his job. Other options were available to him. So, he did not have just cause to voluntarily leave his employment and is not entitled to Employment Insurance benefits.

## **Conclusion**

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

[31] This means that the appeal is dismissed.

Leanne Bourassa  
Member, General Division – Employment Insurance Section

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<sup>4</sup> *Canada (Attorney General) v. Lamonde*, 2006 FCA 44