



Citation: *LS v Canada Employment Insurance Commission*, 2022 SST 541

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

**Decision**

**Appellant:** L. S.  
**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (443608) dated December 23, 2021 (issued by Service Canada)

---

**Tribunal member:** Catherine Shaw  
**Type of hearing:** Teleconference  
**Hearing date:** March 3, 2022  
**Hearing participants:** Appellant  
Appellant's representative  
**Decision date:** March 9, 2022  
**File number:** GE-22-301

## **Decision**

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

[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 is disqualified from receiving Employment Insurance (EI) benefits.

## **Overview**

[3] The Claimant left his job to go to school and 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 has proven that he had no reasonable alternative to leaving his job.

[5] The Commission says that the Claimant could have continued working in his job rather than making a personal decision to attend school.

[6] The Claimant disagrees and states that he couldn't continue working because his shifts would have conflicted with his school schedule.

## **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.

## **Matter I have to consider first**

### **The employer is not a party to this appeal**

[9] The Tribunal identified the Claimant's former employer as a potential added party to the Claimant's appeal. The Tribunal sent the employer a letter asking if they had a direct interest in the appeal and wanted to be added as a party. The employer did not

respond by the date of this decision. As there is nothing in the file that indicates the employer has a direct interest in the appeal, I have decided not to add them as a party to this appeal.

## **Analysis**

### **The Claimant voluntarily left his employment**

[10] To decide if the Claimant voluntarily left his job, I have to look at whether he had a choice to stay or leave the job at the time he stopped working.<sup>1</sup>

[11] The Claimant says that he thought he was going to be laid off from his job when he stopped working to attend school.

[12] The Claimant was on a waitlist for a college program. He was accepted into the program on August 31, 2021. He told his employer on September 2, 2021, that he had to stop working because he was starting school the next week. His supervisor told him that the employer would lay him off so that he could get EI. But, the employer issued his record of employment the following week, saying that the Claimant quit to return to school.

[13] The payroll officer for the employer told the Commission that the employer didn't lay anyone off at the time. She said the Claimant would still be working if he hadn't made the decision to go to school.

[14] At the hearing, the Claimant agreed that he could have continued working if he wasn't going to school.

[15] Both parties agree that the Claimant could have stayed in his job if he had not made the decision to leave. So, I find that the Claimant had a choice to stay employed and he chose to leave. This means he voluntarily left his employment.

---

<sup>1</sup> See *Canada (Attorney General) v. Peace*, 2004 FCA 56.

## **What it means to have just cause**

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

[17] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>2</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[18] 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>3</sup>

[19] It is up to the Claimant to prove that he had just cause.<sup>4</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.

## **The circumstances that existed when the Claimant quit**

[20] The Claimant said that he left his job because he was starting a full-time school program. He was working 12-hour shifts prior to leaving. He says that he had no reasonable alternative to leaving at that time because he couldn't continue working with his school obligations and the lengthy commute to his school.

[21] 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 kept working or worked with the province to be referred to his training before he left.

---

<sup>2</sup> Section 30 of the *Employment Insurance Act* (Act) sets out this rule.

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

<sup>4</sup> See *Canada (Attorney General) v White*, 2011 FCA 190.

[22] Sometimes, the Commission (or a program the Commission authorizes) refers people to take training, a program, or a course. One of the circumstances I have to consider is whether the Commission referred the Claimant to take his training.

[23] The Claimant was referred to his school program in September 2021. He researched the NB-EI Connect program from the provincial government before he quit. Then after he applied for EI benefits, he applied for a referral to school through NB-EI Connect. He was approved on September 26, 2021.

[24] The Appellant's representative said that it would not have been possible for the Claimant to be referred to his training through NB-EI Connect before he left his job. She provided a copy of the application form for the NB-EI Connect program.<sup>5</sup> The form states that an "NB-EI Connect Program Application can only be submitted after you have an active EI claim or have applied for EI through Service Canada." This means the Claimant could not have applied for this program, and therefore been referred to his training, before he stopped working and applied for EI.

[25] The representative provided a recent decision from the SST that she submits is very similar to the Claimant's circumstances (*BP v Canada Employment Insurance Commission*).<sup>6</sup> The claimant in that case was also on a waitlist for school. He was offered a seat in his program on very short notice and had to leave his job quickly. The claimant was referred to his school program, but the Commission disqualified him from EI benefits because he didn't provide an "authorization to quit" his employment from the referring authority. The representative pointed out that the Commission has made the same argument in the Claimant's case.

[26] In *BP v Canada Employment Insurance Commission*, the Tribunal member found that an authorization to quit is not required for a claimant to have just cause to leave their job. The member found that "a person who leaves employment on the

---

<sup>5</sup> See GD6-2.

<sup>6</sup> See GD2-14 to GD2-18.

recommendation of an authorized official to take a course or program of instruction to which he was referred is considered to have just cause.”

[27] This SST decision is similar to the Claimant’s case in several ways. Both of the claimants were attending a college program on short notice. Both of the claimants left their job because it was not possible for them to continue working while attending their full-time school program. But, I find the facts in the Claimant’s case are distinguished from this decision in an important way.

[28] The member in *BP v Canada Employment Insurance Commission* found that the claimant had “sought out the referral [to his training] prior to starting his studies and the referral was in place prior to leaving his employment.”<sup>7</sup> He relied on this fact when he decided the claimant had just cause to leave his employment because he left to attend training to which he was already referred.

[29] This is important because the question of just cause depends on a specific point in time—when the Claimant left his job. I can only consider circumstances that existed at the time the Claimant voluntarily left his job when deciding whether he had just cause to leave.<sup>8</sup>

[30] In the Claimant’s case, he was not referred to his school program at the time he quit. He was unable to apply for a referral to his training through NB-EI Connect until after he stopped working and applied for EI. Since the Claimant wasn’t referred to his school program at the time he quit, I can’t consider it as part of this decision.

[31] Case law clearly says that, if you quit your job just to go to school without a referral, you don’t have just cause for leaving your job.<sup>9</sup> Both parties agree that the Claimant didn’t have a referral to school at the time that he left his job, so this case law applies to him.

---

<sup>7</sup> See GD2-17 at para 17.

<sup>8</sup> See *Canada (Attorney General) v Lamonde*, 2006 FCA 44 at para 8.

<sup>9</sup> See *Canada (Attorney General) v Caron*, 2007 FCA 204.

[32] I understand that the Claimant felt he had no choice but to leave his job because he was starting school. But, I find the Claimant's choice to go to school does not mean he had just cause to voluntarily leave her employment. This is because he had reasonable alternatives to leaving his job when he did.

[33] The Claimant had the reasonable alternative to stay in his job. I understand that the Claimant may have good reasons for choosing to leave his job to go to school. But, this is a personal choice, and it goes against the idea behind the EI plan.<sup>10</sup>

[34] The Claimant did not have just cause to leave his employment. This means he is disqualified from receiving EI benefits.

### **Conclusion**

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

[36] This means the appeal is dismissed.

Catherine Shaw  
Member, General Division – Employment Insurance Section

---

<sup>10</sup> See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.