



Citation: *AH v Canada Employment Insurance Commission*, 2022 SST 475

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: A. H.
Representative: Alberta Carey

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (448058) dated January 17, 2022
(issued by Service Canada)

Tribunal member: Angela Ryan Bourgeois

Type of hearing: Videoconference

Hearing date: May 3, 2022

Hearing participants: Appellant
Appellant's representative

Decision date: May 6, 2022

File number: GE-22-755

Decision

[1] I am dismissing the appeal. The Appellant (Claimant) hasn't shown just cause because she had reasonable alternatives to leaving her job when she did. This means she can't be paid employment insurance benefits.

Overview

[2] Claimants who voluntarily leave their jobs without just cause are disqualified from receiving regular employment insurance benefits (benefits).¹ This means the Canada Employment Insurance Commission (Commission) can't pay them benefits.

[3] The Claimant is an early childhood educator. She left her full-time daycare job on September 10, 2021, after she was offered a casual position with the school board as a pre-primary teacher. She wasn't called into work, so on September 28, 2021, she applied for benefits.

[4] The Commission decided that the Claimant voluntarily left her daycare job without just cause, so it couldn't pay her benefits.

[5] The Commission says the Claimant made a personal decision to leave a permanent, full-time job, for one where she had no guarantee of any hours. It says she made a commendable effort at self-improvement, but her personal decision knowingly put herself in an unemployment situation. It says this isn't just cause under the *Employment Insurance Act*.

[6] The Claimant disagrees. The Claimant says she didn't make the decision to leave her job lightly. She says after 10 years at the daycare, her anxiety was becoming more apparent. She applied for the pre-primary teacher position because it was a chance to advance her career. The pre-primary teacher position offered better pay, union membership, and better working hours. When she left her job, she thought she would have close to full-time hours in the pre-primary position.

¹ The disqualification is under section 30 of the *Employment Insurance Act* (Act).

Issue

[7] I have to decide if the Claimant voluntarily left her job, and if so, whether she had just cause for doing so. If she didn't have just cause, she is disqualified from receiving benefits and the Commission can't pay her benefits.

Analysis

The Claimant voluntarily left her job

[8] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit on September 10, 2021. I see no evidence to contradict this.

What it means to have just cause to leave a job

[9] The law says that claimants are disqualified from receiving benefits if they left their job voluntarily and didn't have just cause.² Having a good reason for leaving a job isn't enough to prove just cause.

[10] To prove she had just cause to leave her job, the Claimant has to prove that in the circumstances she had no reasonable alternative to leaving when she did.³ She has to prove this on a balance of probabilities. That means it has to be more likely than not that she had no reasonable alternatives to leaving.

What circumstances existed when she left her job

– Another job

[11] Whether the Claimant had a reasonable assurance of another job in the immediate future is one thing I have to consider.⁴

² Section 30 of the Act explains this.

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

⁴ Section 29(c)(vi) of *the Act*.

[12] I find the Claimant had a reasonable assurance of another job in the immediate future. There is no dispute that she had a casual position as a pre-primary teacher with the school board before she left her daycare job.⁵

[13] I also have to consider what the Claimant knew about her new position when she decided to leave the daycare job. She knew:

- The position was casual. The Claimant says all positions at the school board start as casual positions.
- She was likely to get fewer hours than what she had been working at the daycare. She said so on her application form, and at the hearing.⁶
- She knew there were no guaranteed hours, but she thought she'd be called in a few days a week.
- The school board could expand the pre-primary program, which would increase her chances of a permanent position in the future.
- She would be unemployed for the summer.

[14] Although fewer hours were likely, the Claimant believed the long-term prospects were better with the school board. Some benefits of the new position were:

- Higher hourly wage
- Union membership
- Preference for a permanent position (with medical and dental benefits)
- Same hours as her daughter's school hours
- Opportunity for advancement (i.e., lead classroom teacher)

⁵ She was hired in August 2021 and left her job in September 2021.

⁶ See page GD3-10.

[15] As it turned out, the Claimant got fewer hours than she expected. She wasn't called in to work until October 2021.⁷ School policies and closures because of the pandemic negatively affected her hours.

– **Anxiety disorder and the daycare job**

[16] Another circumstance that I have to consider is the Claimant's anxiety disorder.

[17] The Claimant says that her daycare job was increasing her anxiety. She was stressed handling both the administrative duties and caring for the children. She wasn't satisfied with her job. She was discouraged that there was no room for advancement. She was already at the top position.

[18] She testified that she hadn't been looking for a new job, but when she saw the pre-primary position, she decided to apply.

[19] Now I have to consider, given these circumstances, whether the Claimant had reasonable alternatives to leaving her daycare job.

The Claimant had reasonable alternatives to leaving

[20] The Claimant had many good reasons for leaving the daycare job. But her reasons for leaving don't amount to just cause under the law.

[21] The Claimant has anxiety, and wasn't satisfied in the position she left. But she hasn't shown that her employment was such that she had no choice but to leave when she did. She hadn't talked to her employer about the situation, and she wasn't looking for another job.

[22] I accept that there are benefits to the pre-primary position. I accept that taking the casual position likely put the Claimant in a better spot for a permanent job. But these aren't enough to give the Claimant just cause for leaving a full-time, permanent position for a casual position without guaranteed hours.

⁷ But my focus is on the circumstances that existed when she left her job.

[23] When the Claimant left her job, it was foreseeable that she could likely end up unemployed. The pandemic may have reduced the number of days she was called in to work. But the pandemic isn't new. In September 2021, it was reasonable to anticipate that there could be school closures, learning from home, and restrictions about school staff working at more than one school. These possibilities increased the odds that the Claimant would be without work.

[24] I know the Claimant didn't make the decision to leave her job lightly, but in the end she decided to take the risk of accepting a casual job without guaranteed hours. This was a personal decision.

[25] I have to follow the law, even when the results seem harsh. The Federal Court has said that it is legitimate for employees to want to improve their lives by changing employers or the nature of their work, but they can't expect those who contribute to the employment insurance fund to bear the cost of those legitimate desires.⁸

[26] Considering the circumstances that existed when the Claimant quit, the Claimant had reasonable alternatives to leaving when she did. She could have stayed employed at her permanent, full-time position, talked to her employer about her concerns, and looked for a different, more secure position.

Conclusion

[27] Because the Claimant had reasonable alternatives to leaving, she didn't have just cause to leave. She had good reasons, but the circumstances aren't ones that allow her to receive benefits. She is disqualified from receiving benefits.

[28] The appeal is dismissed.

Angela Ryan Bourgeois
Member, General Division – Employment Insurance Section

⁸ See *Canada (Attorney General) v Langlois*, 2008 FCA 18.