



Citation: *AM v Canada Employment Insurance Commission*, 2022 SST 566

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

**Decision**

**Appellant:** A. M.  
**Representative:** A. B.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (446888) dated January 17, 2022  
(issued by Service Canada)

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**Tribunal member:** Catherine Shaw  
**Type of hearing:** Teleconference  
**Hearing date:** April 5, 2022  
**Hearing participant:** Appellant's representative  
**Decision date:** April 6, 2022  
**File number:** GE-22-546

## **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 while attending school, or chosen to stay employed rather than making the personal decision to go to school.

[6] The Claimant disagrees and states that he applied for a referral to his training. He believed he was allowed to quit his job by the referring authority.

## **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.

## **Analysis**

### **The parties agree that the Claimant voluntarily left**

[9] I accept that the Claimant voluntarily left his job. The Claimant says that he quit to attend school. I see no evidence to contradict this.

[10] There is some conflicting information about the date the Claimant quit. On his application for benefits, the Claimant reported that his last day of work was August 27, 2021. The employer stated on the Claimant's record of employment that his last day employed was September 9, 2021.

[11] At the hearing, the Claimant's representative testified that the Claimant's last day worked was August 27, 2021. She suggested that the record of employment may reflect the Claimant's remaining vacation time, but confirmed that the Claimant had separated from his job as of August 27, 2021.

[12] I prefer to rely on the Claimant's statement on his application and his representative's confirmation of his last day of employment. I think this information is more reliable than the record of employment, because the employer did not explain why it gave the last date of employment as September 9, 2021. There is no other evidence to support that the Claimant worked until September 9, 2021, and the Claimant himself contradicted this information. So, I find it's most likely the Claimant quit his job as of August 27, 2021.

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

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

[14] 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.

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

[15] 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>

[16] 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.

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

[17] The Claimant said that he left his job because he was starting a full-time school program.

[18] 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 around his school schedule, or continued in his job instead of making the choice to attend school.

[19] 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 school program.

[20] The Claimant’s representative said that he researched a referral to his school program before he quit. He first applied to a Training and Skills Development program in mid-August 2021. Then, on August 30, 2021, he was notified that he wasn’t qualified for this program. He was told that he might qualify for a different program, NB-EI Connect. He contacted an agent for NB-EI Connect the same day. The agent told him that he had to apply for EI before he applied for NB-EI Connect. Once he was approved for the program, he could leave his job and he would start receiving EI benefits.

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

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

[21] The Claimant's representative said that the Claimant applied for the NB-EI Connect program immediately. He was approved on September 17, 2021.

[22] The Claimant's representative provided two decisions from the Tribunal that she submits are very similar to the Claimant's circumstances (*EG v Canada Employment Insurance Commission and BF v Canada Employment Insurance Commission*).<sup>4</sup>

[23] In *BF v Canada Employment Insurance Commission*, the claimant stopped work and applied for a referral to her school program. She was approved shortly afterward. The Tribunal member found that her referral to training was a relevant circumstance and decided the claimant had no reasonable alternative to leaving her job because she had to move to another city to attend her referred training program.

[24] In *EG v Canada Employment Insurance Commission*, NB-EI Connect referred the Claimant to her school program before she left her job. The Appeal Division member found that "a person who leaves employment on the recommendation of an authorized official to take a course or program of instruction to which she was referred is considered to have just cause."<sup>5</sup>

[25] These SST decisions offer a conflicting interpretation of the law.

[26] In *BF v Canada Employment Insurance Commission*, the member considered the claimant's referral to her training a relevant circumstance, even though the claimant had not applied for the referral until after she left her job.

[27] In *EG v Canada Employment Insurance Commission*, the Appeal Division member found that the claimant's referral to training was only relevant because she had already obtained the referral before she quit.

[28] This is important because the question of just cause depends on a specific point in time—when the Claimant left his job. The Federal Court of Appeal has said that I can

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<sup>4</sup> *EG v Canada Employment Insurance Commission*, 2020 SST 748, and *BF v Canada Employment Insurance Commission*, 2018 SST 367.

<sup>5</sup> See *EG v Canada Employment Insurance Commission*, 2020 SST 748, at paras 17 and 31.

only consider circumstances that existed at the time the Claimant voluntarily left his job when deciding whether he had just cause to leave.<sup>6</sup>

[29] The Appeal Division member considered this principle in *EG v Canada Employment Insurance Commission*. He analysed another decision from the Appeal Division of the Tribunal (*Canada Employment Insurance Commission and LS*) which found that the General Division had made an error when it found that a claimant had just cause for leaving because NB-EI Connect had referred the claimant to a training program.<sup>7</sup> This is because the claimant had left her job to go to school before NB-EI Connect agreed to refer her. The Appeal Division relied on the fact that the law states that a claimant must obtain the referral **before** leaving their employment.<sup>8</sup>

[30] I am not bound by prior decisions of the Tribunal. But, I find the Appeal Division member's application of the law is correct. So, I prefer to rely on the principle stated in *EG v Canada Employment Insurance Commission*, rather than the member's interpretation of the law in *BF v Canada Employment Insurance Commission*.

[31] *EG v Canada Employment Insurance Commission* is similar to the Claimant's case in several ways. Both of the claimants left their job to attend a school program. The Commission argued in both cases that the claimants needed an "authorization to quit" their jobs to attend referred training. But, I find the facts in the Claimant's case are distinguished from this decision in an important way.

[32] The member in *EG v Canada Employment Insurance Commission* found that "the Claimant did not quit her job to go to school without first obtaining a referral to her program of studies by NB-EI Connect."<sup>9</sup> He relied on this fact when he decided the claimant had just cause to leave her employment because she left to attend training to which she was already referred.

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<sup>6</sup> See *Canada (Attorney General) v Lamonde*, 2006 FCA 44 at para 8.

<sup>7</sup> See *Canada Employment Insurance Commission v LS*, 2019 SST 969.

<sup>8</sup> See *EG v Canada Employment Insurance Commission*, 2020 SST 748, at para 40.

<sup>9</sup> See *EG v Canada Employment Insurance Commission*, 2020 SST 748, at para 31.

[33] In the Claimant's case, he was not referred to his school program at the time he quit. In fact, he did not apply for the NB-EI Connect program until August 30, 2021, after he had already stopped working. He was approved on September 17, 2021, several weeks after he quit. 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.

[34] 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>10</sup> The Claimant didn't have a referral to school at the time that he left his job, so this case law applies to him.

[35] The Claimant's representative said that the Claimant had been advised that he could leave his job if he was approved for NB-EI Connect. The Claimant thought that he was acting properly by leaving his job based on this advice. He believed that he could rely on the financial support of EI while he attended school once he was approved by the NB-EI Connect program.

[36] I recognize that the Claimant was given information by the NB-EI Connect agent that he understood to mean that he could receive EI even after leaving his job for school. But, the evidence indicates that the Claimant was given this information after he already stopped working on August 27, 2021. The Claimant's representative stated that the Claimant spoke to the agent on August 30, 2021. The Claimant wasn't advised to leave his job before he quit, so this is not a circumstance that I can consider as part of this decision.

[37] 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 his employment. This is because he had reasonable alternatives to leaving his job when he did.

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<sup>10</sup> See *Canada (Attorney General) v Caron*, 2007 FCA 204.

[38] 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>11</sup>

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

## **Conclusion**

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

[41] This means the appeal is dismissed.

Catherine Shaw  
Member, General Division – Employment Insurance Section

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<sup>11</sup> See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.