



Citation: *LM v Canada Employment Insurance Commission*, 2022 SST 586

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

Decision

Appellant: L. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (456865) dated February 15, 2022 (issued by Service Canada)

Tribunal member: Catherine Shaw

Type of hearing: Teleconference

Hearing date: May 19, 2022

Hearing participant: Appellant

Decision date: May 20, 2022

File number: GE-22-1081

Decision

[1] The appeal is dismissed.

[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 was working away from home. This was difficult for him and his family. He left his job so he could be closer to home. 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 looked for work near his home before he quit, or taken leave from work to address the personal issues he was having at home.

[6] The Claimant disagrees and states that he couldn't continue working because he wanted to be closer to home.

Matters I have to consider first

The employer is not a party to this appeal

[7] 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.

The Claimant alleged that I was biased

[8] At the beginning of the hearing, the Claimant stated that he felt my only purpose was to deny him benefits. I asked the Claimant why he felt that way. His concerns appeared to arise from the Commission's decision that he was disqualified from EI benefits and that it maintained that decision after reconsideration. I explained that the Tribunal is independent from the Commission and that my role is to make a fair and unbiased decision in his case. The Claimant expressed that he still felt that I was unable to make an unbiased decision.

[9] I find the Claimant hasn't provided enough information to show there was bias or a reasonable apprehension of bias on my part.¹ The Claimant made assumptions about my personal background and my role in the Tribunal, but has not pointed to any evidence or conduct that support his allegations.

I closed the hearing due to the Claimant's conduct

[10] The Claimant attended the teleconference hearing. During the hearing, he was agitated and reacted in a hostile manner to my questions. He repeatedly directed me to the written statement he had included with his request for reconsideration. He told me that everything he had to say was included in that statement. The Claimant used derogatory language towards me several times during the hearing. I closed the hearing because of the Claimant's conduct.

Issue

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

[12] 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.

¹ See *Committee for Justice and Liberty v National Energy Board*, (1978] 1976 CanLII 2 (SCC), 1 S.C.R. 369. The test to be applied is "what would an informed person, viewing the matter realistically and practically and having thought the matter through conclude?"

Analysis

The parties agree that the Claimant voluntarily left

[13] 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.²

[14] The Claimant was working in construction away from home. The employer said that any employees who were unable to travel to the worksite because they were unvaccinated would be eligible for a layoff. The Claimant wasn't unvaccinated, but he wanted to be closer to home for personal reasons. He asked his manager to put him on the list for a layoff.

[15] At the hearing, the Claimant said that the employer didn't want him to leave. He was a good employee and there was no shortage of work. He asked for the layoff because he wanted to stop working so far from home.

[16] There's no dispute that the Claimant could have remained working in his job if he had not asked to be laid off. In other words, he could have stayed in his job if he had not made the decision to leave. So, I find the Claimant voluntarily left his employment.

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

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

[18] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.³ Having a good reason for leaving a job isn't enough to prove just cause.

[19] 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.⁴

² See *Canada (Attorney General) v. Peace*, 2004 FCA 56.

³ Section 30 of the *Employment Insurance Act* (Act) explains this.

⁴ See *Canada (Attorney General) v. White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

[20] It is up to the Claimant to prove that he had just cause. 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.⁵

[21] 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 law sets out some of the circumstances I have to look at.⁶

[22] After I decide which circumstances apply to the Claimant, he then has to show that he had no reasonable alternative to leaving at that time.⁷

The circumstances that existed when the Claimant quit

[23] The Claimant was working in a location away from his home. Being away from home was difficult for his family. He left his job because he wanted to be closer to home.

[24] The Claimant stated that his spouse was experiencing depression, which was part of the reason that he wanted to be closer to home.

[25] There are some circumstances set out in law that I have to consider when I see if someone had just cause to leave their employment. An obligation to care for a member of their immediate family is one of those circumstances.⁸

[26] The Claimant hasn't provided enough information to support that he had an obligation to care for his spouse. While I accept that his spouse was experiencing depression, he has not shown that he was providing care for his spouse. So, I find this circumstance does not apply to the Claimant.

⁵ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

⁶ See section 29(c) of the Act.

⁷ See section 29(c) of the Act.

⁸ See section 29(c) of the *Employment Insurance Act*.

The Claimant had reasonable alternatives

[27] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did.

[28] The Claimant says that he had no reasonable alternative because he wanted to stop working away from home.

[29] The Commission disagrees and says that the Claimant could have looked for work closer to home before quitting, or taken leave from work while he addressed the personal issues he was having at home.

[30] In most cases, a claimant has an obligation to show efforts to seek other work before deciding to quit a job.⁹

[31] The Claimant said that he looked for a job closer to home. He made a phone call about it but there were no jobs available in his area.

[32] I acknowledge the Claimant was experiencing challenges being away from home. I accept that the Claimant felt he had good reasons for quitting his job. But, there is a difference between the concepts of “good reasons” and “just cause” for voluntarily leaving.¹⁰

[33] I find the Claimant hasn’t shown that he had just cause to leave his job because he had reasonable alternatives to leaving when he did.

[34] The Claimant may have good personal reasons for why he left his job, including that his wife was experiencing mental health issues and he wanted to be closer to home. But it is not enough for the Claimant to show that he made a reasonable decision or had a reasonable motive to leave his employment.

⁹ This principle is set out in *Canada (Attorney General) v. White*, 2011 FCA 190

¹⁰ *Tanguay v Canada (Unemployment Insurance Commission)*, A-1458-84.

[35] The Claimant has to prove that he had no reasonable alternative left at the time he quit. This means it is important for the Claimant to try other reasonable things before quitting. I find there were reasonable things the Claimant could have tried before he left.

[36] The Claimant could have stayed in his job for awhile and looked for other work that would allow him to stay closer to home. At the hearing, he said that he made a phone call to see if there were jobs available in his area. While making one phone call shows that he made some efforts to find work, he hasn't provided enough information to prove that he exhausted this reasonable alternative before quitting. It would have been reasonable for him to make more than one attempt to find other work closer to home before he chose to leave his employment.

[37] If the Claimant had serious concerns about his spouse's mental health issues, it would have been reasonable for him to request time off from work so he could be with his spouse while taking temporary leave from his job. This would have been a reasonable thing for the Claimant to do, rather than leaving his employment entirely.

[38] The Claimant has not shown that leaving his job was the only reasonable thing left for him to do. He had reasonable alternatives to leaving his job. This means that he has not proven that he had just cause for leaving when he did.

Conclusion

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

[40] This means that the appeal is dismissed.

Catherine Shaw
Member, General Division – Employment Insurance Section