



Citation: *DM v Canada Employment Insurance Commission*, 2022 SST 652

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

Decision

Appellant: D. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (455536) dated February 16, 2022
(issued by Service Canada)

Tribunal member: Gary Conrad

Type of hearing: Teleconference

Hearing date: April 25, 2022

Hearing participant: N/A

Decision date: April 27, 2022

File number: GE-22-773

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 a reasonable alternative to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant quit his job as he said his job in food service was high risk for exposure to COVID, and he lived with his mother who had heart problems; he did not want her catching COVID.

[4] 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.

[5] The Commission says the Claimant worked all through 2020 and the first half of 2021 in the same job, with the same risk of exposure to COVID, yet did not see a need to quit then. So, he could have kept working at his job until such time he found and secured alternative employment more to his liking.

[6] I must decide whether the Claimant has proven that he had no reasonable alternative to leaving his job.

Matter I have to consider first

[7] The Claimant wasn't at the hearing. A hearing can go ahead without the Claimant if the Claimant got the notice of hearing.¹ I think that the Claimant got the notice of hearing.

¹ Section 12 of the *Social Security Tribunal Regulations* sets out this rule.

[8] The Claimant said the Tribunal could communicate with him by email.²

[9] On April 20, 2022, the notice of hearing was sent to the Claimant at the email address he said the Tribunal could communicate with him at.

[10] On April 22, 2022, a reminder email was sent to the Claimant's email address.

[11] There is no evidence either of these emails could not be delivered.

[12] So, the hearing took place when it was scheduled, but without the Claimant.

Issue

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

[14] 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

[15] I accept the Claimant quit his job. He has been consistent in his statements to the Commission, in his request for reconsideration, and his notice of appeal that he quit. I see no evidence to contradict this.

The parties don't agree that the Claimant had 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.³ Having a good reason for leaving a job isn't enough to prove just cause.

² GD02-3

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

[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.⁴

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

[20] The Commission submits the Claimant did not have just cause for his voluntary leaving.

[21] The Commission submits that originally the Claimant said he quit his food service job as he wanted to work in a different field, but after being denied benefits he suddenly changed his reason for quitting saying he quit due to his concerns about exposing his mother to COVID.⁶

[22] The Commission submits the Claimant was not at any greater risk of contracting COVID when he quit in June 2021, as opposed to the yearlong period prior when he was working the same job.

[23] The Commission submits the Claimant had the reasonable alternatives to quitting of continuing in his job and securing alternative employment more to his liking before he quit, taking a leave of absence from his job, and discussing his concerns regarding COVID with his employer.

[24] I note the Claimant told the Commission that he did start another job about a month and a half after leaving his food service job, but he confirmed that he did not have a job offer in place before he quit.⁷

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

⁵ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

⁶ GD04-3

⁷ GD03-13

[25] I find, that the fact the Claimant did not have a job offer in place before he quit means that he did not have just cause to leave his food service job due to having a reasonable expectation of having secured another job.

[26] While the Claimant has said he left his job due to a concern about exposing his mother to COVID, as he worked in food service which is a high risk industry for exposure, I find that concern does not provide just cause for his voluntary leaving.

[27] I find I agree with the submission of the Commission that there is no evidence to support the Claimant was at any greater risk of contacting COVID when he quit in June 2021, as opposed to the time he had worked prior to when he quit. The Claimant also confirmed this with the Commission.⁸

[28] So, I find that if he was able to work in other months prior to June 2021, with the same risk of COVID, and nothing having changed in that regard at the time he quit, he had the reasonable alternative of continuing to work for his employer until he found and secured alternative employment more to his liking.

[29] As I have found the Claimant had a reasonable alternative to leaving his employment, this means he has not proven he had just cause for his voluntary leaving,⁹ so the disqualification from benefits is upheld.

Conclusion

[30] I find that the Claimant is disqualified from receiving benefits as he had a reasonable alternative to leaving his employment so he does not have just cause for his voluntary leaving.

[31] This means that the appeal is dismissed.

Gary Conrad
Member, General Division – Employment Insurance Section

⁸ GD03-21

⁹ See *Canada (Attorney General) v White*, 2011 FCA 190