



[TRANSLATION]

Citation: *CB v Canada Employment Insurance Commission*, 2022 SST 871

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

## Decision

**Appellant:** C. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (461425) dated March 15, 2022 (issued by Service Canada)

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**Tribunal member:** Josée Langlois

**Type of hearing:** Teleconference

**Hearing date:** August 3, 2022

**Hearing participants:** Appellant  
Observer

**Decision date:** August 3, 2022

**File number:** GE-22-1414

## Decision

[1] The appeal is dismissed.

[2] The Appellant hasn't shown just cause, or a reason the *Employment Insurance Act* (Act) accepts, for leaving her job when she did. This means she is disqualified from receiving benefits as of December 16, 2021.

## Overview

[3] On December 16, 2021, the Appellant left her job of 33 years at X. She says that her partner was already living in X and that she left her job to move in with him—about 150 kilometres from where she had been living.

[4] On March 15, 2022, the Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause under the Act, so it wasn't able to pay her benefits.

[5] The Appellant says that she had been dating her partner for several years before moving in with him. She says that it wasn't easy to look for another job before moving, given the distance.

[6] I have to decide whether the Appellant has proven that she had no reasonable alternative to leaving her job.

## Matter I have to consider first

[7] At the hearing, the Appellant said that she was withdrawing the file. She said that, after leaving her job, she eventually accepted a work-sharing position and that the Commission would have found that she qualified for benefits in another file. The Appellant said that she had enough insurable hours of employment to qualify for benefits after voluntarily leaving her job, and she was happy with how things had turned out.

[8] However, as I explained at the hearing, I am still hearing the matter. The Commission hasn't submitted any additional arguments about the Appellant's work-sharing file, and the issue of the Appellant's voluntary leaving is still in dispute.

[9] I will make this decision on a balance of probabilities. This means that, if it is more likely than not that the Appellant quit her job, I have to find that she is disqualified from receiving benefits as of December 16, 2021.

## **Issue**

[10] Is the Appellant disqualified from receiving benefits because she voluntarily left her job without just cause?

[11] To answer this, I must first address the Appellant's voluntary leaving. I then have to decide whether the Appellant had just cause for leaving.

## **Analysis**

### **Voluntary leaving**

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

[12] As she stated to the Commission and in her notice of appeal, the Appellant confirmed at the hearing that she had voluntarily left her job on December 16, 2021.<sup>1</sup> She said she would have enough insurable hours of employment to qualify for benefits if she made a new application for benefits.

[13] The Commission is also of the view that the Appellant voluntarily left her job on December 16, 2021.

[14] I accept that the Appellant voluntarily left her job. The Appellant agrees that she quit on December 16, 2021. I see no evidence to contradict this.

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<sup>1</sup> GD2-1.

## **The parties don't agree that the Appellant had just cause**

[15] The parties don't agree that the Appellant had just cause for voluntarily leaving her job when she did.

[16] The Act 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 good cause (that is, a good reason) for leaving a job isn't enough to prove just cause.

[17] 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>

[18] It is up to the Appellant to prove that she had just cause.<sup>4</sup> She has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that her only reasonable option was to quit. When I decide whether the Appellant had just cause, I have to look at all the circumstances that existed when the Appellant quit.

[19] When she applied for benefits on December 1, 2021, the Appellant said that she had voluntarily left her job to join her spouse/partner who was living in another region. She then said that they weren't living together before her move.<sup>5</sup>

[20] However, the Appellant says that they had been in a relationship for 15 years and that this move had been planned for 3 years but that she had put it off because her mother was sick and she wanted to care for her. Her mother died, and on November 20, 2021, she moved from Carignan to X.

[21] The Appellant also says that she didn't ask her employer for a transfer to her new region because it wasn't an option. She says that she made efforts to find a job only

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

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

<sup>4</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

<sup>5</sup> GD3-7.

after she moved. She argues that, because she had to drive about 1 hour and 50 minutes to get to X, she wasn't able to look for a job before she moved.

[22] On this point, the Commission says that the Appellant could have made some efforts to find a job, even remotely. It argues that it is possible to attend interviews by videoconference or to take leave to attend in-person interviews. The Commission says that the Appellant had accumulated leave that was paid to her from November 22, 2021, to December 16, 2021, and that this leave period could have been used to look for a job.

[23] The Commission argues that the Appellant didn't have just cause for voluntarily leaving her job on December 16, 2021, because she didn't exhaust all reasonable alternatives before leaving. According to the Commission, a reasonable alternative would have been to use her paid leave to find a job, to ask her employer for temporary leave, or to live separately from her spouse until she found a job in her new region.

[24] The Commission also argues that the Appellant didn't have common-law status because she and her partner hadn't lived together before her move, they had no intention of getting married, and they had no children together. The Commission says that there are no exceptional circumstances that justify the Appellant's leaving her job before she had assurance of another one.

[25] It is true that, in most cases, a claimant is obligated to make efforts to find another job before making the unilateral decision to quit the one they have.<sup>6</sup> In this case, the Appellant made efforts to find a job after she moved—that is, after December 16, 2021.

[26] Even though the decision to leave her job was the best one for the Appellant at the time, and she decided to move in with her partner of 15 years, the fact remains that she voluntarily left her job without exhausting the alternatives.

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<sup>6</sup> This principle is explained in *Canada (Attorney General) v White*, 2011 FCA 190.

[27] As the Commission argues, one alternative would have been to keep her job until she had assurance of another job in her new region or to ask her employer for temporary leave. In fact, the employer told the Commission that, had the Appellant asked for such leave, it would have granted it.<sup>7</sup>

[28] The Appellant was actually on leave between November 22, 2021, and December 16, 2021, and she hasn't shown that she made efforts to find a job during that period. She says that there aren't many opportunities to find a job in X or the surrounding areas and that she started looking for a job only once she had moved.

[29] Unfortunately, when an employee voluntarily leaves their job, they are disqualified from receiving benefits, and the Appellant hasn't shown that she could take advantage of one of the exceptions to get benefits in the case of voluntary leaving.

[30] Since she didn't start looking for a job until she moved to X, the Appellant hasn't shown that she had assurance of another job when she left the one she had. Especially since she says that this move had been planned for several weeks—or even years. The Appellant was visiting her partner regularly, in addition to having a period of leave before the actual end date to the job. Another alternative would have been to check what jobs were available to have assurance of another job before leaving the one she had.

[31] Furthermore, the Appellant hasn't shown that she had common-law status at the time—while she was living in a different residence from her partner, who was living in another region nearly 150 kilometres away.<sup>8</sup> Despite this, even if the Appellant had common-law status at the time, she hasn't shown that she needed to move when she did. The obligation to accompany a spouse or common-law partner to another residence doesn't apply in the Appellant's case because she chose to go live with her partner.

[32] I understand the Appellant's disappointment, especially since she worked for the same employer for 33 years. However, the Act doesn't say that it is possible to receive

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<sup>7</sup> GD3-26.

<sup>8</sup> Section 2(1) of the Act.

benefits when you voluntarily leave your job unless you have exhausted all reasonable alternatives before leaving.

[33] The Appellant voluntarily left her job on December 16, 2021, when she had alternatives at the time.

## **Conclusion**

[34] The Appellant hasn't shown that she had just cause for leaving her job on December 16, 2021.

[35] This means that the appeal is dismissed.

Josée Langlois

Member, General Division – Employment Insurance Section