



Citation: *BJ v Canada Employment Insurance Commission*, 2022 SST 751

Social Security Tribunal of Canada Appeal Division

Decision

Appellant: B. J.

Respondent: Canada Employment Insurance Commission
Representative: Gilles-Luc Bélanger

Decision under appeal: General Division decision dated May 5, 2022
(GE-22-760)

Tribunal member: Jude Samson

Type of hearing: On the record

Decision date: August 12, 2022

File number: AD-22-359

Decision

[1] The appeal is allowed. The Claimant had just cause for taking a leave of absence from his job. As a result, he is entitled to receive Employment Insurance (EI) benefits.

Overview

[2] B. J. is the Claimant in this case. The Canada Employment Insurance Commission (Commission) refused to pay him EI benefits because he voluntarily took an unpaid leave of absence from his job to finish his university program.

[3] The Claimant tried to see if he could work and study at the same time, but his two schedules didn't fit together. So, he asked the Commission if he could receive EI benefits while completing the last year of his university studies.

[4] According to the Claimant, one of the Commission's agents confirmed that he could receive benefits under its Lifelong Learning Program, but said that he would have to leave his job and then ask for approval. So, the Claimant arranged an unpaid leave of absence with his employer, and the Commission approved his training a few weeks later.¹

[5] Regardless, the Commission concluded that it wouldn't pay benefits to the Claimant because he voluntarily took a leave of absence, and did so without just cause.² The Claimant's appeal to the Tribunal's General Division was unsuccessful. So, he then appealed to the Appeal Division.

[6] Shortly after my colleague gave the Claimant leave (permission) to appeal, the Commission provided submissions conceding the appeal. I then invited the parties to a settlement conference, where they agreed on the outcome of the appeal.

¹ See section 25 of the *Employment Insurance Act*.

² See section 32 of the *Employment Insurance Act*.

The parties agree on the outcome of the appeal

[7] At the settlement conference, the parties agreed to the following:

- In this case, the General Division made an error of law when it found that the Claimant needed to secure the Commission's authorization to take a leave of absence as a precondition to establishing just cause under the law.
- In the circumstances, the Appeal Division should give the decision the General Division should have given.
- The Claimant had no reasonable alternative to taking a leave of absence when he did. As a result, he had just cause and is entitled to EI benefits.

I accept the proposed outcome

[8] Based on the information available to me, I agree that the General Division made an error of law. In this case, taking a leave of absence was the Claimant's only reasonable course of action.

[9] Specifically, the Claimant tried but was unable to arrange his university schedule so that he could work and study at the same time. After speaking to a designated agent, the Claimant understood that he was eligible for the Lifelong Learning Program and that he had to leave his job before asking the Commission to approve his training program. The Claimant followed the agent's advice and the Commission approved the Claimant's training.

Conclusion

[10] I'm allowing the Claimant's appeal and giving the decision the General Division should have given: the Claimant had just cause for taking a leave of absence from his job. This means that he's entitled to EI benefits.

Jude Samson
Member, Appeal Division