



Citation: *SS v Canada Employment Insurance Commission*, 2022 SST 769

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

Decision

Appellant: S. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (459878) dated March 17, 2022 (issued by Service Canada)

Tribunal member: Amanda Pezzutto

Type of hearing: Videoconference

Hearing date: June 15, 2022

Hearing participant: Appellant

Decision date: June 23, 2022

File number: GE-22-1193

Decision

[1] S. S. is the Claimant. The Canada Employment Insurance Commission (Commission) is refusing to pay Employment Insurance (EI) benefits. The Commission says the Claimant doesn't have just cause for leaving his job. The Claimant is appealing this decision to the Social Security Tribunal (Tribunal).

[2] I am dismissing the Claimant's appeal. He hasn't proven that leaving his job was the only reasonable alternative. So, he hasn't proven that he had just cause for leaving. This means he can't get EI benefits.

Overview

[3] The Claimant started a new job in September 2021. He left the job at the end of November 2022 and asked for EI benefits. The Commission looked at his reasons for leaving. The Commission decided that he didn't have just cause for leaving his job. So, the Commission refused to pay EI benefits.

[4] The Claimant says he had to leave his job. He says that the working conditions were a danger to his health because the employer wasn't doing enough to protect workers from COVID-19. The Claimant also says that the employer made significant changes to his working conditions. Also, his supervisor was difficult to work with.

[5] The Commission says the Claimant doesn't have just cause for leaving because he had reasonable alternatives to leaving his job. The Commission says he hasn't shown that the working conditions were a danger to his health. The Commission says the Claimant could have found a new job before leaving. Or, he could have talked to the employer about his concerns.

Issue

[6] I have to decide if the Commission should disqualify the Claimant for voluntarily leaving his job without just cause.

[7] To make this decision, first I have to look at whether the Claimant stopped working because he quit (or voluntarily left) his job. If I find that he quit, then I have to decide if he has shown that he had just cause for leaving.

Analysis

The Claimant and the Commission agree that the Claimant quit his job

[8] The Claimant has always said he stopped working because he quit. The Commission agrees that the Claimant chose to leave his job. Nothing in the appeal file makes me think that the Claimant stopped working for any other reason.

[9] So, I agree that the Claimant quit his job. He had a choice to stay or leave, and he chose to leave his job. The law calls this “voluntary leaving.”

The Claimant and the Commission disagree about whether the Claimant had just cause for leaving

[10] The Claimant and the Commission disagree about whether the Claimant had just cause for voluntarily leaving his job when he did.

[11] The law says that you are disqualified from receiving benefits if you leave your job voluntarily and you don't have just cause.¹ Having a good reason for leaving a job isn't enough to prove just cause.

[12] 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.²

[13] 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.³

¹ Section 30 of the *Employment Insurance Act* (Act) explains this.

² See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

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

[14] 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.⁴

[15] After I decide which circumstances apply to the Claimant, then he has to show that he had no reasonable alternative to leaving at that time.⁵

The circumstances that existed when the Claimant quit

[16] The Claimant says that several of the circumstances described in the law apply to his case. He says:

- The working conditions were a danger to his health and safety
- There were significant changes to his working conditions
- He had an antagonistic relationship with his supervisor

[17] I will look at each of these three circumstances and decide if the evidence shows me that they apply to the Claimant's situation. I have to make my decision on a balance of probabilities. This means that the Claimant has to show it is more likely than not that the circumstance existed when he quit his job.

– Working conditions a danger to health and safety

[18] The Claimant says that the working conditions were a danger to his health. He told the Commission that he didn't feel safe working in the office because of COVID-19.

[19] The Commission disagrees. The Commission says the Claimant isn't credible on this point. The Commission says he didn't speak to his employer about health and safety concerns.

[20] The Claimant and the employer gave conflicting information about this circumstance. The Claimant told the Commission that he didn't feel safe working in the

⁴ See section 29(c) of the Act.

⁵ See section 29(c) of the Act.

office. He said that the employer wanted him to work in the office, but he didn't think it was safe. He said that co-workers didn't wear masks, he didn't have enough distance from other workers, and he felt scared and unsafe. He said he talked to the employer about his concerns, but they didn't do anything. His supervisor told him to "man up."

[21] But the employer told the Commission that the Claimant never brought up COVID-19 safety concerns. The employer said they had a detailed COVID-19 safety plan and they updated it regularly. The employer also said they did an exit interview with the Claimant and he never brought up COVID-19 safety concerns as part of his reason for leaving.

[22] The employer gave the Commission a copy of its COVID-19 safety plan. The employer also gave the Commission a copy of the exit interview with the Claimant. The exit interview is long and there are open-ended questions. In particular, the exit interview includes questions like, "What did you dislike about your job?" and, "Are there any working conditions at the company that you feel were detrimental to you?" The exit interview notes don't show that the Claimant mentioned COVID-19 safety in response to these or any other questions. The Commission says this shows that the Claimant isn't credible when he says that he was worried about workplace safety.

[23] At the hearing, I asked the Claimant about the employer's COVID-19 safety plan. I asked if the employer wasn't following its safety plan, or he thought there were other things the employer should have been doing. He agreed that the employer's COVID-19 safety plan was detailed and that the employer was following the plan. But he said he felt safer working from home.

[24] I also asked the Claimant about the exit interview. I asked why he didn't bring up COVID-19 safety during the exit interview. The Claimant said the employer guided the interview and only asked about his supervisor. He said that he didn't think the employer asked all the questions listed in the exit interview script. But he also read the employer's notes and agreed that the responses to several of the questions sounded like things he would say.

[25] I don't find the Claimant's explanation credible or convincing. I think it is likely that the employer asked the questions on the exit interview script. This is because the employer has notes with the Claimant's responses for nearly all of the questions. I think the likely reason that the employer doesn't have notes about COVID-19 safety is because the Claimant didn't bring it up during the exit interview.

[26] I also think the employer likely followed its COVID-19 safety plan. This is because the Claimant agreed that the employer was following the COVID-19 safety plan at the hearing.

[27] So, I don't think the Claimant is credible when he says that the workplace was not safe and that he talked to the employer about COVID-19 safety. I think the employer is more likely to be credible on this point. I understand that the Claimant preferred to work from home, but I don't think he has proven that the working conditions were a danger to his health and safety.

– **Significant changes to working conditions**

[28] The Claimant says that the employer made significant changes to his work duties. He says he accepted the job because he expected it to be a remote position. He also expected that the job would involve a lot of travel.

[29] But when he started working, the employer wanted him to work from the office. He only travelled for work once. The Claimant says this was a significant change to his working conditions.

[30] The Commission disagrees. The Commission says that less travel and working from an office aren't significant changes to the working conditions.

[31] I agree with the Commission. I understand that the Claimant expected more travel and more opportunity to work from home, but I don't think he has proven that the employer made significant changes to his working conditions.

[32] The Claimant included part of his employment contract with his notice of appeal. The employment contract says that the Claimant will travel up to 50% of the time, or "as

required.” The contract doesn’t say anything about working remotely, but the Claimant also included a job posting for the job. The job posting says that it is a remote job, but it also says that the person in the job will work from the head office.

[33] I agree that the employer’s job information suggests that the job would require a lot of travel. I also agree that the Claimant likely expected that he would be able to work from home.

[34] However, I also note that the employer’s COVID-19 safety plan says that travel is only for essential services. At the hearing, I asked the Claimant if the employer had reduced travel as part of its COVID-19 safety plan. The Claimant said the employer never told him that they were reducing travel for health and safety reasons.

[35] I acknowledge that the Commission didn’t ask the employer about travel and its COVID-19 safety plan. I also acknowledge that the Claimant didn’t know if the employer reduced travel because of COVID-19. But I think it is likely that the employer considered COVID-19 safety as part of its travel planning because the COVID-19 safety plan explicitly refers to travel and considering whether travel is necessary.

[36] I also note that the employer told the Commission that the Claimant’s job required a hybrid of working from home and working in the office. I don’t see anything in the Claimant’s evidence that says there was no expectation to work in the office at all. In fact, the job posting says that the position needs someone to work out of the home office.

[37] So, I think the evidence shows me that the job had some travel and the ability to work remotely. But I don’t think the evidence shows that the job was supposed to be entirely remote. The evidence shows me that the job required a lot of travel, but only as required. I also think the evidence shows me that the COVID-19 safety plan included information about limiting travel.

[38] I understand that the Claimant wanted to work from home and travel more than he did. But I don’t think he has proven that the employer made significant changes to

his work duties simply because he didn't get to travel or work remotely as much as he wanted to. He hasn't proven that his circumstance existed when he left his job.

– **Antagonism with a supervisor**

[39] The Claimant says that his supervisor was antagonistic. He says he and the supervisor were like "oil and vinegar."

[40] The Claimant gave examples of his relationship with the supervisor. He said the supervisor told him to "man up" when he spoke about COVID-19 safety concerns. The supervisor didn't wish the Claimant a happy birthday. He told the employer that the supervisor was negative and they didn't socialize together.

[41] I understand that the Claimant didn't like his supervisor. But antagonism with a supervisor means more than simply not getting along with someone. This circumstance covers a genuinely antagonistic relationship. I don't think the Claimant's examples show that there was a genuinely antagonistic relationship. Instead, I think the Claimant's examples show that he and the supervisor had different working styles, and the Claimant didn't like working with the supervisor.

[42] So, I don't think he has proven that there was an antagonistic working relationship with the supervisor. He hasn't proven that this circumstance existed at the time he quit.

The Claimant had reasonable alternatives

[43] Now, I must decide if the Claimant has proven that leaving his job was his only reasonable alternative at the time he left.

[44] The Claimant says that he had to leave his job because he didn't think it was honest to keep working for the employer while he looked for other work. He says that the working conditions were unsafe.

[45] The Commission says that he had reasonable alternatives to leaving. The Commission says he could have found a new job, talked to his employer about his safety concerns, or gone to provincial authorities if he had health concerns.

[46] I agree with the Commission. The Claimant hasn't proven that leaving his job was the only reasonable thing left he could do. He had reasonable alternatives to leaving his job.

[47] I have already explained why I don't think the Claimant has proven that the working conditions were a danger to his health. But even if the Claimant had proven that his employer wasn't following COVID-19 safety procedures, he had reasonable alternatives.

[48] He says that he talked to his employer about his concerns, but I don't think this is credible. This is because the employer said he didn't talk about COVID-19 safety concerns. Also, his exit interview doesn't include any mention of COVID-19 safety procedures. So, I think it would have been reasonable for the Claimant to talk to his employer about his safety concerns before leaving. Or, he could have contacted the provincial worker safety board or provincial health authorities to talk about the employer's safety plan.

[49] I have also explained why I don't think the Claimant has proven that the employer made significant changes to the working conditions. I understand that the Claimant wanted to work from home and expected more travel, but I don't think these are working conditions that justify the Claimant leaving without first considering alternatives. I think it would have been reasonable for the Claimant to make sure he had a new job before he quit.

[50] Finally, I don't think the Claimant has proven that there was antagonism with his supervisor. I understand that the Claimant didn't like his supervisor. But this doesn't mean that he could leave without first considering alternatives. I think it would have been reasonable to find a new job before quitting.

[51] At the hearing, the Claimant said he tried to find a job before he left. He said he used Linked In and was speaking to other employers. But he quit before he had a job offer from a new employer. I think it would have been reasonable to wait until he had a job offer.

[52] Having a good reason for leaving a job isn't enough to show just cause. The Claimant has to prove that leaving his job was the only reasonable course of action. But I find that he hasn't proven that leaving his job was the only reasonable thing left that he could do. So, the Claimant hasn't proven that he had just cause for leaving his job.

Conclusion

[53] I am dismissing the Claimant's appeal. He hasn't proven that he had just cause for leaving his job. This means that he is disqualified from receiving EI benefits.

Amanda Pezzutto
Member, General Division – Employment Insurance Section