



Citation: *RJ v Canada Employment Insurance Commission*, 2022 SST 758

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

Decision

Appellant: R. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (444412) dated December 21, 2021 (issued by Service Canada)

Tribunal member: Leanne Bourassa

Type of hearing: Teleconference

Hearing date: February 2, 2022

Hearing participants: Appellant/Claimant

Decision date: February 16, 2022

File number: GE-22-88

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

[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 left his job as a lower lube technician in an oil change garage on July 24, 2021. He applied for EI benefits. 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.

[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 instead of leaving when he did, the Claimant could have discussed his concerns about air quality with his employer and given the employer a chance to address them. He could also have seen a doctor to confirm his medical problems were related to the air quality in the shop.

[6] The Claimant disagrees and says that he was facing harassment at his workplace that was not sufficiently addressed by his employer. He also felt his workplace was unsafe and was affecting his health and safety. Because of that he, had no choice but to give his two weeks notice. He also argues that his employer had agreed he would not write 'quit' on his record of employment.

Issue

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

[8] 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

[9] I accept that the Claimant voluntarily left his job. The Claimant agrees that he gave his employer two weeks notice and his last day of work was July 24, 2021. I see no evidence to contradict this.

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

[10] The parties don't agree that 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 left your job voluntarily and you didn'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, he then 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 two of the circumstances set out in the law apply. Specifically, he says that he was being harassed in the workplace and that his health and safety were at risk on the job.

– Harassment

[17] I find that the Claimant was not facing treatment that could be considered harassment.

[18] The Claimant explained that during the approximately three weeks he worked for his employer, the floor supervisor harassed him by failing to train him properly and speaking to him in an unprofessional manner. He said that the floor supervisor was rude and impatient with him. When he brought it up to the owner, the situation improved for a day or two but then became harassing again when the owner went out of town.

[19] I find that the Claimants testimony about the behavior of the floor supervisor was credible. He gave specific examples of what this person would say and do and how it hampered his ability to work. His descriptions of the working situation has been consistent since he first raised it before the Commission.

[20] While the Clamant does say that his relationship with the floor supervisor was antagonistic, he also say says that he could have tolerated that situation if the working conditions were better. The situation he describes seems unpleasant, but not violent or

⁴ See section 29(c) of the Act.

⁵ See section 29(c) of the Act.

threatening. He describes the behavior as rude and unprofessional, but it does not seem to amount to much more than frustrations in a busy workplace.

[21] The Claimant was able to raise the issue with the owner and see some improvement. He has not said that the relationship with the floor supervisor was intolerable. In fact he says that if that was the only issue he would not have left. So I do not find that the Claimant was dealing with circumstances that amounted to harassment when he quit.

– **Working conditions that constitute a danger to health or safety**

[22] I find that the Claimant has not shown that he was facing working conditions that were a danger to his health or safety.

[23] The Claimant says that the basement pit he was working in was unsafe because it did not have proper ventilation. He suspected that there were high levels of carbon monoxide and that was giving him headaches.

[24] He also testified that he didn't have proper safety equipment. He suffered burns from the work he was doing and there was no offer to take him to the hospital to treat them.

[25] I believe that the Claimant was unhappy with the safety conditions at the shop. However, he hasn't submitted any evidence that there were high levels of carbon monoxide in his workspace. He did not see a doctor about his headaches, so he can't confirm that it was the air quality at work was causing them after only a week on the job. There were other employees in the basement with the Claimant and there is no indication they were experiencing the same problems.

[26] The employer told the Commission that there was ventilation in the basement and a carbon monoxide detector in the shop. The Claimant hasn't supplied any evidence that these measures were not in place or that they were insufficient to create a safe workplace.

[27] The Claimant also says that he called Ontario Health and Safety about the conditions in the shop. I believe he did this because the employer told the Commission that they were visited by an inspector after the Claimant left. The Claimant hasn't submitted any reports from an inspection from the time he was working there. The employer told to Commission that the inspection did not report any issues related to the air quality in the shop.

[28] The Claimant also says he got burns while working at this fast paced, high volume job. He says he was not taken to the hospital to treat them. However, he also says that he did discuss the situation with his employer, who told him that there were coveralls available for him to wear when working. He was also told there was cream available to help with the burns. I understand the Claimant was not satisfied with that.

[29] It does seem that the Claimant was uncomfortable working in the basement of the shop. He said often that the fast pace of the work was different than what he was used to. Although he did suffer some burns, the Claimant also testified that the other lube tech had told him he also had burns when he started out. It was likely that as he became accustomed to the job, he would not have injuries.

[30] I find that the Claimant hasn't proven that it was his working conditions that were a danger to his health for safety.

[31] I find that the circumstances that are listed in the law did not exist at the time the Claimant left his job.

The Claimant had reasonable alternatives

[32] The Claimant can still be successful in his claim if he can show he had no reasonable alternative to leaving his job when he did.

[33] The Claimant says that he had no reasonable alternative because the situation at his workplace was affecting his physical and mental health. There was no point in staying in the job and he could get another job quickly.

[34] The Commission disagrees and says that the Claimant could have consulted a doctor to confirm the source of his headaches was the air quality in the pit where he was working. He could also have raised the issue with his employer before he left and seen if the situation would improve before deciding to leave.

[35] I find that the Claimant did have reasonable alternatives to leaving his job when he did.

[36] The Claimant explained that after working for the shop for about one week he gave the owner his two week notice. The notice was given right after the owner returned from a few days out of town.

[37] I see that the Claimant did raise his issues with his floor supervisor with the owner and the situation did improve for a day or two. In fact there were two employees who the Claimant was not getting along with and after an intervention from the owner, the relationship with the other employee was much better. Unfortunately, when the owner was out of town, the floor supervisor returned to his rude behavior.

[38] When the owner came back, the Claimant did not ask him to intervene again, but gave him his notice immediately. Trying again to resolve the situation with the floor supervisor, or even seeing if it was possible to work more with another upper floor technician were options that were open to the Claimant before quitting.

[39] The Commission argues that the Claimant only raised the air quality concerns with his employer when he had already decided to leave. The Claimant says that the air quality was a big part of his decision to leave, but that he only raised it with his employer after he had given him his two weeks notice.

[40] Before leaving his employment, the Claimant could have discussed the air quality situation more clearly with his employer and seen if steps would be taken to correct them.

[41] If the Claimant believed that the headaches he was experiencing were related to the air quality in the shop, he could have consulted a doctor to confirm that this was the

likely source of his symptoms. Instead, he reached that conclusion on his own and decided to quit.

[42] The Claimant did make complaints to a few outside organizations about the conditions at the job. Unfortunately, he made most of those complaints after quitting. He did not wait for the results of investigations before deciding to leave his job. This would not have left any opportunity for his employer to try and resolve any problems.

[43] For a claimant to have just cause for leaving a job, he has to show that he had tried to resolve the problems, rather than becoming voluntarily unemployed. In this case, the Claimant chose to leave his job after only a few weeks. He only discussed certain problems with the employer after he had given his two week notice. He had not secured another job at the time he had given his two week notice. I find he had reasonable alternatives to leaving when he did.

[44] This means the Claimant didn't have just cause for leaving his job.

Conclusion

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

[46] This means that the appeal is dismissed.

Leanne Bourassa
Member, General Division – Employment Insurance Section