



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

Citation: *ML v Canada Employment Insurance Commission*, 2019 SST 1763

Tribunal File Number: GE-19-3535

BETWEEN:

**M. L.**

Claimant

and

**Canada Employment Insurance Commission**

Commission

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**General Division – Employment Insurance Section**

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DECISION BY: Audrey Mitchell

HEARD ON: November 21, 2019

DATE OF DECISION: November 28, 2019

## **DECISION**

[1] The appeal is allowed. The Claimant left her job with just cause.

## **OVERVIEW**

[2] The Claimant left a job in June 2018 due to shortage of work. The Commission approved her application and paid her benefits to November 2018. The Claimant had returned to work for a different former employer in June 2018. She worked two shifts and left this job for a second time. The Commission learned that the Claimant left her job from the record of employment (ROE) the employer issued. The ROE shows that the Claimant quit this job. The Commission denied the Claimant's application for benefits because they determined that she voluntarily left her job without just cause because she was returning to school. The Claimant argued that she left her job to care for family.

## **PRELIMINARY MATTERS**

[3] The hearing was scheduled for November 13, 2019. Because I had inadvertently scheduled the hearing outside normal business hours, in the interests of natural justice, I granted the adjournment.<sup>1</sup>

## **ISSUES**

[4] Did the Claimant voluntarily leave her job?

[5] If so, did the Claimant have just cause to leave her job voluntarily?

## **ANALYSIS**

[6] Claimants cannot receive employment insurance (EI) benefits if they voluntarily leave any job without just cause.<sup>2</sup> The Commission must prove that the Claimant voluntarily left her

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<sup>1</sup> Section 11 of the *Social Security Tribunal Regulations*.

<sup>2</sup> Subsection 30(1) of the *Employment Insurance Act*.

job. Then, the Claimant must show just cause for voluntarily leaving her job. She must show that she had no reasonable alternative to leaving her job.<sup>3</sup>

**Issue 1: Did the Claimant voluntarily leave her job?**

[7] I find that the Claimant voluntarily left her job.

[8] The Claimant told her employer that she could not work for them any longer because she was going to another province. Because of this, I find that she voluntarily left her job.

**Issue 2: Did the Claimant have just cause to leave her job voluntarily?**

[9] I find that the Claimant has shown that she had just cause to leave her job when she did.

[10] A claimant has just cause for voluntarily leaving a job if they had no reasonable alternative to leaving.<sup>4</sup> Just cause includes the obligation to care for immediate family.<sup>5</sup> But just cause does not include attending school that the Commission does not approve.<sup>6</sup>

[11] The Claimant worked for the employer and quit in April 2018 to look after her teenaged daughter who had a baby. The Claimant had another job at the time, but that employer laid her off in June 2018. The Commission approved the Claimant's application for benefits. The Claimant testified that the employer that she left in April 2018 called her and asked her to work a couple of shifts in June 2018. The Claimant agreed and worked four to five hours in each of the two shifts.

[12] Although the Claimant testified that she quit her job on June 9, 2018, when the Commission asked if her last day of work was June 17, 2018, the Claimant said that sounded right. The ROE that the employer issued shows that the last day for which the Claimant was paid was June 17, 2018. Because the employer confirmed this date verbally to the Commission, I find that June 17, 2018 is the date the Claimant quit her job.

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<sup>3</sup> *Green v. Canada (Attorney General)*, 2012 FCA 313; *Canada (Attorney General) v. White*, 2011 FCA 190.

<sup>4</sup> Paragraph 29(c) of the *Employment Insurance Act*.

<sup>5</sup> Subparagraph 29(c)(v) of the *Employment Insurance Act*.

<sup>6</sup> *Canada (AG) v. Martel*, A-1691-92, *Canada (AG) v. Caron*, 2007 FCA 204.

[13] The Claimant said that the employer asked her to work more shifts after the first two, but she refused. The reason she gave the employer was that she was moving to a different province. The Claimant told the Commission that she quit because she was returning to school at the end of June 2018. She added later that due to a family emergency, she decided not to move to go to school, but stayed to support her daughter.

[14] At the hearing, the Claimant testified that in June 2018, she decided that she could not leave her daughter alone. When asked when she decided that she would no longer be going to school, the Claimant responded June 9, 2018. She testified that her father had a terminal illness and her mother was not well. The Claimant added that she was dealing with her own depression, so that period was hard for her.

[15] The Claimant's representative asked the Claimant why she told the Commission that she quit her job to go to school. The Claimant said that the Commission's call caught her off guard. She said that she is not denying that she said she had applied to school, but stated that this was not the main reason she quit. The Claimant testified that she applied to go to school on May 8, 2018, and that by June 2018, her daughter's situation worsened. She said that for this reason, she did not have returning to school on her mind.

[16] The Claimant submitted a letter to the Commission from the school to which she had applied. The letter invited her to attend a pre-entry interview as part of the application process. The Claimant's representative argued that based on the date of the letter, the Claimant did not yet know if the school had accepted her in the program. The Claimant confirmed that she did not go to the July 10, 2018 pre-entry interview.

[17] Although the Claimant agrees that she quit her job, she said that she was not comfortable telling her employer about the personal issues she was experiencing. She explained that the employer already thought that she was going back to school, so she did not give another reason.

[18] I found the Claimant's testimony to be honest and straightforward. When speaking about her personal issues, the Claimant became emotional, which is understandable. I have no reason to doubt the Claimant's evidence concerning her parents' illnesses, her daughter's post-partum

depression, her living situation and her care of her grandson. As a result, I accept this evidence as fact.

[19] Although the Claimant told the Commission that she quit her job because she was returning to school, I give more weight to her testimony that she quit care for her family for reasons that follow.

[20] The Claimant submitted a doctor's note that said that the Claimant reported that she decided not to go to school because she needed to take care of her grandson because of issues her daughter was having. The doctor added that based on a clinic note from June 5, 2018, the Claimant referred to her plan to attend school, but said that the Claimant decided not to move to support her daughter and grandson. Although the doctor's note is dated March 26, 2019, I find it very reliable because it refers to a clinic note that pre-dates when the Claimant quit her job.

[21] I also find the argument of the Claimant's representative about the pre-entry invitation letter persuasive. The letter states that the pre-entry interview is part of the application process. I find therefore that the school had not yet accepted the Claimant in the program to which she applied. I find that this lends credibility to the Claimant's assertion that returning to school was not the main reason she quit her job. I do not find that the Claimant quit her job her go to school; rather, I find that she quit her job to care for her family.

[22] At the hearing, I asked the Claimant about the care she gave to her family members. She confirmed that she was caring for her grandson and daughter, and she helped with her father by bringing him food, helping to move around the house, and taking him to appointments. She said that she did not provide care to her mother.

[23] I find that the Claimant's father and daughter are members of her immediate family. I accept as fact that the Claimant's father had a terminal illness and that her daughter continued to suffer with depression and was suicidal, which required the Claimant to become her grandson's primary caregiver. I am therefore satisfied of the Claimant's obligation to care for members of her immediate family.

[24] Based on the above, I am satisfied that the Claimant had just cause to quit her job to care for her immediate family members, namely her daughter and father.

[25] I find that the Claimant has shown that she had just cause to leave her job when she did. Because of this, she is not disqualified from receiving EI benefits.

**CONCLUSION**

[26] The appeal is allowed.

Audrey Mitchell

Member, General Division - Employment Insurance Section

HEARD ON:	November 21, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	M. L., Claimant  Daryl Gan, Representative for the Claimant