



Citation: KM v Canada Employment Insurance Commission, 2022 SST 899

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

Decision

Appellant: K. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (414692) dated March 2, 2021 (issued by Service Canada)

Tribunal member: Nathalie Léger

Type of hearing: Teleconference

Hearing date: April 1, 2022

Hearing participant: Appellant

Decision date: April 2, 2022

File number: GE-21-404

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 on Friday, February 2, 2018. He was already receiving EI benefits from a previous claim. 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 must decide whether the Claimant has proven that he had no reasonable alternative to leaving his job.

[5] The Commission says that the Claimant could have discussed his concern about work climate with his employer or could have tried to find another employment before leaving. He could also have contacted a doctor if the situation required it.

[6] The Claimant disagrees and states that people were talking behind his back and that he strongly feels it was time for him to leave this employment when he did. For him it was only a "try-out" and he was therefore justified to leave since it wasn't working out for him.

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 quit on February 2, 2018. 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. In other words, even if leaving might be the best decision on a personal or emotional level, it might not constitute just cause under the law.

[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.³ 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. When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit.

[14] The Commission says that the Claimant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Claimant could have talked to the managers before leaving, tried to get other employment before leaving or consulted a doctor if he felt his situation was bad enough that it was endangering his health.

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 3.

[15] The Claimant says that he left his job because he asked many times to get a written contract of employment and was only presented with one on the day he decided to leave. That contract mentioned a date of February 5, 2018, which did not reflect his real start date with the employer. The Claimant feels this was done deliberately and that it shows the employer was being dishonest with him. He stated that he had a gut feeling “it was time to pack up his things and leave”⁴.

[16] The Claimant says that he had no reasonable alternative to leaving at that time because when an untrustworthy relationship is established between an employer and an employee, there is no going back. Talking about it would be pointless. He also says he did talk to a manager the Monday after he left but that the manager he spoke to was crying and focusing on the business, not on him. For the Claimant, this showed he was not taken seriously and that no solution could be found.

[17] The Claimant also mentioned in detail at the hearing how both his community and the line of work he is in being small worlds where everyone knows everyone. He also says that he was being targeted for things that happened in the past with him or members of his family. It is unclear if this had a bearing on his decision to leave or only on his decision to not go back when he talked with a manager.

[18] I do not have to make a final determination on this point because even if relationships with his community or family was fraught, I find the Claimant still had other alternatives to leaving.

[19] I find that the Claimant did not have just cause for leaving. I find that the Claimant could have tried to speak with a manager about his work assignments and about the work environment⁵. When asked at the hearing to explain why he did not do so, the Claimant talked about both his previous and latest employment and about how he was mistreated there too, but it was hard to get a straight answer as to why he had not talked to the employer in the case at hand. He finally said that he did not do so because once a work relationship goes wrong, nothing could be done. To the Commission, the

⁴ See GD3-19. This was also mentioned at the hearing.

⁵ See GD3-19

Claimant said he did not talk to the employer at the time because he only recently realized what was going on⁶. Although the exact reason is unclear, what is certain is that the Claimant did not try to resolve a difficult work situation (if there was one) before he chose to leave his employment.

[20] The Commission, on the other hand, has shown that the employer would have taken the Claimant back if he had wanted to. The employer needed the experience of the Claimant and was ready to talk with him⁷. The Claimant said he tried talking to the employer afterwards but nothing came of it. This is not sufficient to meet his burden of proof that no reasonable alternative was available.

[21] The Commission also claims the Claimant could have looked for work before he left. The Claimant says he did not do this because he was working full time and therefore did not have the time to look for work⁸.

[22] I find that the Claimant did not have just cause to leave as he did. The Federal Court of Appeal made clear in a 2011 decision⁹ that a claimant has to at least try to resolve a conflict or find alternative employment before quitting. Unfortunately, the Claimant did not do this.

Conclusion

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

[24] This means that the appeal is dismissed.

Nathalie Léger

Member, General Division – Employment Insurance Section

⁶ See GD3-22

⁷ See GD3-17

⁸ See GD3-22

⁹ *Canada (AG) v. White*, 2011 FCA 190