



Citation: *DC v Canada Employment Insurance Commission*, 2022 SST 1065

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

Decision

Appellant: D. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (489435) dated July 11, 2022 (issued by Service Canada)

Tribunal member: Kristen Thompson

Type of hearing: Teleconference

Hearing date: September 28, 2022

Hearing participant: Appellant

Decision date: October 3, 2022

File number: GE-22-2390

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 April 22, 2022 and 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 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 continued working with the employer until he secured other work or until a promotion is available to him.

[6] The Claimant disagrees and says that he is overqualified for the position. His skills and education would be better used elsewhere. He says he was made to believe he would be part of the supervision team. But when his goal of a promotion wasn't being met by the employer, it was better for him to quit.

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 the employer a letter of resignation on April 8, 2022, with two-week notice. He quit on April 22, 2022. 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, considering all of the circumstances, you had no reasonable alternative to quitting your job when you did.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. The circumstances that I have to look at include some set by law.⁴ After I decide which circumstances apply to the Claimant, he then has to show that there was no reasonable alternative to leaving at that time.⁵

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.

⁴ See section 29(c) of the *EI Act*.

⁵ See section 29(c) of the *EI Act*.

The circumstances that existed when the Claimant quit

[14] The Claimant says that he left his job because he is overqualified for his position. He says his goal of a promotion wasn't being met by the employer. The Claimant says that he had no reasonable alternative to leaving because the employer wasn't interested in giving him a promotion.

[15] The Commission disagrees and 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 continued working with the employer until he secured other work or until a promotion is available to him.

[16] The Claimant says that he moved provinces to be closer to family. He was able to work remotely for a time, until he lost his job. He says it's difficult for him to find suitable employment in his new location.

[17] The Claimant interviewed with the employer on January 21, 2022. He says the interviewers included the employer's human resources agent and a supervisor. He says they told him they would like to hire him in a supervisory position. They told him the new facility wasn't ready. They told him they would call him closer to the chance of employment. He says he kept in touch with the employer.

[18] The employer's human resources agent contacted him by email on February 10, 2022 offering the Claimant production work. The agent wrote that with the "right attitude and performance" other opportunities may be available to the Claimant. The agent told the Claimant the employer was getting the new facility ready.

[19] The Claimant says that production work wasn't the job he wanted. He says the position has a low salary. But he signed an employment contract with the employer on March 1, 2022 as a general production worker. The contract says that employees are eligible to apply for internal job postings after their 6-month probation period is successfully completed.

[20] The Claimant started work on March 4, 2022. He applied for other jobs with the employer. At the beginning of April 2022, he says he spoke with the human resources agent, the supervisor, and the plant manager about other positions. He says he was told by the plant manager that they would look at different positions after his probation period.

[21] The employer's human resources agent told the Commission that he spoke with the Claimant about a supervisor position. This took place before the Claimant was hired. The employer hired another candidate for the supervisor position. The Claimant was offered production work because the employer didn't have another supervisory position available at that time.

[22] The employer's human resources agent told the Commission that the employer wanted to hire a supervisor at the new facility, once it's ready. The agent said he has seen people move to other positions before the end of the 6-month probation period, when warranted.

[23] The Claimant testified that he felt like he didn't have a place amongst the employer's team. He says he felt getting a promotion with the employer was unlikely. He says it's better for him to walk away.

[24] The Claimant gave the employer a letter of resignation on April 8, 2022, with two-week notice. He quit on April 22, 2022.

Reasonable alternatives

[25] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did. The Claimant says that he didn't have any, because the employer wasn't interested in giving him a promotion. The Commission says that he had the reasonable alternative of continuing working with the employer until he secured other work or until a promotion is available to him.

[26] I find that the Claimant had reasonable alternatives to leaving when he did. I agree with the Commission that the Claimant could have continued working with the employer until he secured other work or until a promotion is available to him.

[27] I find that a reasonable alternative to leaving would have been for the Claimant to continue working until other employment was secured elsewhere. The Claimant says it's difficult for him to find suitable employment in his new location. I think it would have been reasonable for him to not take the financial risk of quitting before finding other employment.

[28] I find that another reasonable alternative to leaving would have been for the Claimant to continue working until a promotion is available to him. I think it was too early for the Claimant to leave his employment. He worked there only two months and his probationary period hadn't ended. I think it wasn't enough time for the employer to assess his attitude and performance. The completion of the new facility may have brought other employment opportunities for the Claimant.

[29] Considering the circumstances that existed at the time that the Claimant voluntarily left, the Claimant had the reasonable alternative of continuing to work until other employment was secured elsewhere, or until a promotion became available to him. This means that the Claimant didn't have just cause for leaving his job.

Conclusion

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

[31] This means that the appeal is dismissed.

Kristen Thompson
Member, General Division – Employment Insurance Section