



[TRANSLATION]

Citation: *CH v Canada Employment Insurance Commission*, 2022 SST 1158

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

**Decision**

**Appellant:** C. H.  
**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (474324) dated May 9, 2022  
(issued by Service Canada)

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**Tribunal member:** Manon Sauvé  
**Type of hearing:** Videoconference  
**Hearing date:** September 15, 2022  
**Hearing participant:** Appellant  
**Decision date:** October 21, 2022  
**File number:** GE-22-1709

## **Decision**

[1] The appeal is dismissed.

[2] The Claimant hasn't shown just cause for leaving her job. She had reasonable alternatives to leaving. This means she is disqualified from receiving Employment Insurance (EI) benefits.

## **Overview**

[3] The Claimant worked as an orderly in a long-term care facility. On November 6, 2021, she voluntarily left her job.

[4] She applied for EI benefits. The Commission denied her EI benefits because she voluntarily left her job without just cause.

[5] She decided to voluntarily leave her job because she didn't want to follow her employer's vaccination policy or to get tested if unvaccinated.

[6] The Claimant disagrees with the Commission's decision. She had just cause for voluntarily leaving her job. She paid her premiums, and her co-workers and employer harassed her. She had the right to refuse to submit to tests that constituted a danger to her health.

## **Matter I have to consider first**

[7] The Claimant filed documents on September 13, 2022. I gave the Commission 10 days to respond.

## **Issue**

[8] Should the Claimant be disqualified from receiving benefits because she voluntarily left her job without just cause?

[9] 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

[10] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit. I see no evidence to contradict this.

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

[11] The parties don't agree that the Claimant had just cause for voluntarily leaving her job when she did.

[12] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[13] 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.<sup>2</sup>

[14] It is up to the Claimant to prove that she had just cause. She has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that her only reasonable option was to quit.<sup>3</sup>

[15] 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.<sup>4</sup>

[16] After I decide which circumstances apply to the Claimant, she then has to show that she had no reasonable alternative to leaving at that time.<sup>5</sup>

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<sup>1</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

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

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

<sup>4</sup> See section 29(c) of the Act.

<sup>5</sup> See section 29(c) of the Act.

## **The circumstances that existed when the Claimant quit**

[17] I note that the Claimant worked as an orderly in a long-term care facility.

[18] In June 2021, her employer told many employees, including her, that a vaccination policy would be put in place for all health care workers. She didn't want to be subject to the policy, so she asked her employer whether she could change positions.

[19] In October 2021, her employer met with her. She had the choice to get vaccinated or submit to PCR tests.<sup>6</sup> The employer gave her some time to make up her mind. She took a vacation, hoping that the situation would change.

[20] During her vacation, she contacted her union to find out what her alternatives were. She also sent her résumé to a number of employers who didn't require vaccination, but nothing came of it.

[21] She was told that the policy would take effect on November 15, 2021. Employees who refused to follow the policy would be placed on leave without pay.

[22] She went back to work on November 4, 2021. On November 10, 2021, she resigned, since she didn't want to get vaccinated or submit to PCR tests, for personal reasons.

[23] The Claimant says that her employer's vaccination policy amounts to harassment, that she was discriminated against, that the working conditions constituted a danger to her health, and that the employer's practices are contrary to the law, her beliefs, and professional ethics.

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<sup>6</sup> Polymerase chain reaction virological test that is used to detect the SARS-CoV-2 virus.

– **Harassment**

[24] The Claimant says that her employer harassed her. It wasn't her supervisor who harassed her; it was the government, with its mandatory vaccination and testing policy. Her employer and co-workers pressured her to get vaccinated.

[25] The Claimant referred to [translation] "Appendix A,"<sup>7</sup> submitted when she asked the Commission to reconsider. She also referred to sites with information on the meaning of harassment and the employer's duty to provide a harassment-free environment.

[26] In the Commission's view, the Claimant hasn't shown that she was harassed on the job.

[27] I find that the Claimant hasn't shown that she was harassed on the job. The vaccination policy and testing requirement applied to all health care workers.

– **Discrimination**

[28] The Claimant says that the employer violated her rights under the *Canadian Charter of Rights and Freedoms*. She had the right to refuse to get vaccinated. It could not require her to get vaccinated.

[29] In my view, it isn't for me to decide whether the employer's policy infringes rights and freedoms. There are different avenues for asserting your rights.

[30] Also, considering the situation, namely that there was a COVID-19 pandemic, that governments were introducing different measures to fight it, and that the Claimant worked in a high-risk environment, I find that the Claimant hasn't shown that she was discriminated against because of her choice not to get vaccinated or tested. Once again, the policy applied to all workers.

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<sup>7</sup> GD3-34.

– **Conscience**

[31] The Claimant alleges that the employer didn't respect her religious beliefs or uphold professional ethics. She hasn't shown that she had religious beliefs or there was a breach of professional ethics and that she left because of this.

[32] She submitted words from a text she had found and adapted on mandatory vaccination.<sup>8</sup> I understand that she may agree with the text, but it doesn't support a finding that she refused to follow the policy for religious or other reasons.

– **The vaccination requirement and tests**

[33] The Claimant says that her employer could not require her to get vaccinated. It is a medical act that has to be performed in a free and informed way.

[34] It is true that the Claimant could refuse to get vaccinated and tested, but she knew the consequences. What remains to be determined is whether she had no reasonable alternative to leaving for this reason.

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

[35] The Claimant argues that the requirement to get vaccinated and tested constituted a danger to her health.

[36] She filed several documents in support of her position. The vaccine is experimental. Vaccination has caused many injuries or deaths.

[37] Also, the materials used in making masks, liquid sanitizers, and PCR tests contain graphene,<sup>9</sup> which causes serious health problems.

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<sup>8</sup> GD2-16.

<sup>9</sup> Graphene is a two-dimensional crystalline material, an allotropic form of carbon that forms graphite when stacked—Wikipedia.

[38] The Claimant hasn't shown that her health prevented her from getting vaccinated or from submitting to PCR tests. She also hasn't shown that they constituted a danger. This leads me to discuss the Claimant's evidence.

– **The Claimant's evidence**

[39] Before deciding whether the Claimant had just cause for leaving her job and had no reasonable alternative to leaving, I will discuss the documents she submitted and the circumstance I will consider in my analysis.

[40] The Claimant submitted a set of documents in support of her position. I place little weight on the documents she submitted. She hasn't shown that the sources are reliable, that experts have corroborated the studies, or that the studies support her arguments.

[41] We are dealing with words from texts that are disjointed or made to fit her position. And assumptions, extrapolations, and interpretations to support her point of view.

[42] Additionally, it isn't for the Tribunal to decide whether the vaccine works or has caused health problems. And it isn't for me to determine the dangerousness of using sanitizer, masks, tests, or a vaccine.

[43] With that in mind, I find that the circumstance that existed when the Claimant quit was the employer's policy concerning the requirement to get vaccinated or tested for COVID-19.

[44] I also find that the Claimant hasn't shown that the other circumstances alleged in her notice of appeal existed.

**The Claimant had reasonable alternatives**

[45] I must now look at whether the Claimant had no reasonable alternative to leaving her job when she did.

[46] The Claimant says that she looked for a job before quitting, that she tried to change positions, and that she talked to her union. She looked for an alternative besides following her employer's policy.

[47] In the Commission's view, the Claimant voluntarily left her job five days before the employer's policy came into effect. She could have waited to be temporarily suspended to stay employed, she could have worked another job during the suspension, and she could have made sure that she had another job before quitting.

[48] In my view, the Claimant hasn't shown that she had no reasonable alternative to leaving. She could have found a job before quitting. She also could have waited to be suspended and stayed with the employer.

[49] When she decided to leave her job five days before her employer's policy came into effect, she caused her unemployment.<sup>10</sup> And, considering all the circumstances, she had reasonable alternatives to leaving.

[50] This means that the Claimant didn't have just cause for leaving her job.

## **Conclusion**

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

[52] This means that the appeal is dismissed.

Manon Sauvé  
Member, General Division – Employment Insurance Section

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<sup>10</sup> See *Canada (Canada Employment and Immigration Commission) v Gagnon*, [1988] 2 SCR 29.