



Citation: *SM v Canada Employment Insurance Commission*, 2022 SST 1485

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: S. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (428176) dated July 8, 2021 (issued by Service Canada)

Tribunal member: Candace R. Salmon

Type of hearing: In person

Hearing date: July 25, 2022

Hearing participant: Appellant

Decision date: October 27, 2022

File number: GE-21-1371

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 her job when she did. The Claimant didn't have just cause because she had reasonable alternatives to leaving. This means she is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left her job in April 2021, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at her reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

[4] I must decide whether the Claimant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says that the Claimant could have sought work in her new community before quitting her job, taken a leave of absence or vacation before quitting, or consulted a doctor about how her circumstances were affecting her health.

[6] The Claimant disagrees and states that she had no choice except to quit her job. She says that she was experiencing loneliness following the death of her husband. She said the COVID-19 pandemic made this worse, and she felt scared and unsafe. She added that she needed to be in a community where she had people around, so she moved to a place where she has family.

Issue

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

[8] To answer this, I must first address the Claimant's voluntary leaving. I then have to decide whether she had just cause for leaving.

Analysis

The parties agree that the Claimant voluntarily left

[9] I accept that the Claimant voluntarily left her job. The Claimant agrees that her last day of work was April 8, 2021, and says she quit her job to move to another location, and to protect her mental health. 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 her job when she 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 she had just cause.³ 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. When I decide whether she had just cause, I have to look at all of the circumstances that existed when she quit.

[14] The Claimant says that she worked at an assisted retirement and long term living facility. She said she worked there from April 2009, until April 8, 2021. She said that she

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.

quit because she decided to move from X, Nova Scotia, to X, Nova Scotia, and did not have an opportunity to transfer positions.

[15] At the hearing, the Claimant recounted a series of challenging losses in her personal life. She said that in 2018, she woke up and realized her husband of 38 years had passed away while they slept. This was followed by multiple other deaths and serious illnesses in her immediate family and friends. She said she went back to work three weeks after her husband died, because she, “couldn’t stand being alone.”

[16] The Claimant said that through 2018 and 2019, she was in shock and started to get her life back together when COVID-19 hit in 2020. She said she went from being lonely to being isolated and afraid. She said she couldn’t cope anymore. She said she visited a doctor in February 2020, and said she thought she needed to move from X the X, so she could be with her family. She said she was totally alone in X, and needed to be safe.

[17] The Claimant quit her job. Her last day, recorded on her Record of Employment, was April 11, 2021. She said that she sold her home, because it needed significant renovations and she could not undertake them at her age. She added that she wouldn’t have been able to maintain the house by herself.

[18] The Claimant testified that the main reason she moved was for her mental health. She said she didn’t know how long COVID-19 would continue, and how long she would be isolated. She initially applied for EI special benefits for sickness, receiving benefits from December 16, 2021, until April 2022. She moved to X, Nova Scotia, on May 31, 2021.

[19] The Commission issued a decision on June 28, 2021. It found the Claimant wasn’t entitled to regular EI benefits because she voluntarily left her job without just cause.

[20] On June 29, 2021, she asked for reconsideration. She said that her husband of 38 years passed, and she has no children. She said she was left alone and when the COVID-19 pandemic happened, she was isolated and afraid so she moved to X to be with family.

She said that she did not want to leave her job, but the, “loneliness was becoming too much.”

[21] The Claimant spoke to a Commission officer on July 8, 2021. She told the officer that she had not looked for any other work before she quit her job. She also stated that she had to stop working in April 2021, before she moved at the end of May 2021, so she could pack up her belongings and sell her house. She said she could not have worked while trying to pack, clean, and move. She also stated that she didn’t consider taking time off, a vacation, or a leave of absence.

[22] The Commission officer asked the Claimant if she had spoken to a doctor about how she was feeling prior to quitting her job. She said she had not, because she was coping and trying to deal with it herself. She said that she now lives two minutes away from her 92-year old mother, who lives alone and is self sufficient.

[23] The Commission issued a reconsideration decision on July 8, 2021. It upheld its finding that the Claimant was not entitled to EI benefits because she voluntarily left her employment without just cause.

[24] The Claimant appealed to the Tribunal on August 3, 2021.⁴ She said that she disagreed with the Commission’s decision because she left her job due to relocating to another region. She said she did not want to leave her home, but was too lonely and felt unsafe after the COVID-19 pandemic happened. She said that in 2021, she couldn’t, “take this much longer,” so she went to her doctor and told her that loneliness was getting to her and she was thinking about moving from X to X to be with family. She said her doctor told her that was a good idea.

[25] At the hearing, the Claimant testified that her employer didn’t have a branch in X, so she didn’t have an option to transfer jobs. She said she decided in February 2021, that she would move, and moved on May 31, 2021. She added that she didn’t apply for any other jobs before leaving her position because the pandemic was limiting hiring. She also

⁴ This case was put into abeyance in 2021 because the Claimant wanted an in-person hearing. During the height of COVID-19, the Tribunal was not able to travel or hold in-person hearings. The hearing was scheduled when restrictions were lifted and the hearing could take place.

said that she hasn't started looking for a job yet. She said she plans to return to work, but wants to get, "settled and get her head around the world" first.

[26] The Claimant confirmed that she doesn't provide care to her mother, but said she chose to move to X largely because her mother was there.

[27] I noted that the Claimant told the Commission she did not see a doctor about how she was feeling, before she quit her job. However, at the hearing she said that she did see a doctor in February 2021, prior to quitting in April 2021. The Claimant clarified that while she went to see her doctor, they did not talk about her job. The Claimant said that she told her doctor that she wanted to move to X, and they had a conversation about whether the Claimant would remain on the doctor's patient list..

[28] The Commission submits that the Claimant had reasonable alternatives to leaving her job when she did, like looking for a new job before quitting or taking a temporary leave of absence or vacation to deal with the loneliness and challenges she was experiencing.

[29] The Claimant submits that she did not think about any of those things, because she was dealing with significant loss and wasn't thinking rationally. She said she wasn't thinking about what she could do, or her options, but what she had to do to survive.

[30] At the hearing, the Claimant said she provided a medical note to the Commission confirming she saw a doctor. She said the note was not in the file, and she didn't have a copy. On July 26, 2022, I asked the Commission to provide any documents from a medical professional in its file. It replied on July 27, 2022, with supplementary representations and copies of two documents.

[31] The first letter is dated December 7, 2021. It is from the Claimant's family doctor. It confirms that the Claimant was "feeling lonely after her husband passed away" and said she self-reported that "her mental health deteriorated after COVID." The doctor adds that in April 2021, the Claimant decided to move to be with her family and for comfort and mental health. There is no diagnosis or recommendation from the doctor in the note.

[32] The other document is dated March 8, 2022, and confirms the Claimant was not able to work due to medical reasons from December 16, 2021. Given that the Claimant received sickness benefits, it is likely that this second letter related specifically to establishing that claim.

[33] I note that the Claimant told the Commission she didn't speak to a doctor about how she was feeling, before she quit her job. At the hearing, she said that she spoke to her doctor in February 2021, before quitting in April 2021. The first medical letter supports that she spoke to her doctor in December 2021, more than 6 months after she quit her job and moved to X. I find the evidence more strongly supports that the Claimant did not seek medical support or advice prior to quitting her job, because she initially told the Commission that she did not, and because the dates on her medical notes do not support that she sought medical intervention prior to quitting her job.

[34] I find that the Claimant quit her job because she wanted to move to another community. She wanted to move because she was lonely following several personal losses.

[35] The Claimant did not look for any jobs in X, Nova Scotia, before quitting her job. At the hearing, she confirmed that she has not yet looked for work. A reasonable alternative to quitting her job and putting herself in a certain position of unemployment was to look for other work before she quit.

[36] The Claimant also said that she didn't consider a vacation or leave of absence instead of quitting. At the hearing, she said she wasn't financially set up to take a leave. I note that she then chose to quit her job and put herself in a position of having no income at all. I find she had the reasonable alternative of taking a temporary leave before deciding to quit her job.

[37] I considered whether the Claimant had an obligation to care for a member of her immediate family. I found this circumstance did not exist, because her mother does not require care, lives alone, and is self-sufficient.

[38] I also considered the Claimant's mental health, and her statement that she was dealing with it on her own but had visited a doctor. I noted there was some inconsistency in the file, because the Claimant told the Commission that she hadn't seen a doctor about her mental health concerns, but later said that she did. It is clear that the Claimant visited her doctor in December 2021, but I have already found it more likely than not that she did not see a doctor prior to quitting her job. While the doctor's notes post-date the leaving of the job, there is no diagnosis of a mental health condition or a recommendation from the doctor for the Claimant to quit her job. The evidence from her appointments does not support that she had to leave her job for medical reasons.

[39] I recognize the Claimant was lonely when her husband passed away, and this was made worse by the pandemic. I also understand that she wanted to move to a community where she had family. However, choosing to move because you want to be closer to family is not just cause. It may be a good reason to leave your job, but that isn't the same as having no reasonable alternative other than leaving your job.

[40] Considering all of the circumstances individually and combined, I find the Claimant had reasonable alternatives to leaving her job. This means that I find she did not have just cause for leaving.

Conclusion

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

[42] This means that the appeal is dismissed.

Candace R. Salmon
Member, General Division – Employment Insurance Section