



Citation: *PW v Canada Employment Insurance Commission*, 2022 SST 1449

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: P. W.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (488461) dated June 13, 2022 (issued by Service Canada)

Tribunal member: Kristen Thompson

Type of hearing: Teleconference

Hearing date: October 26, 2022

Hearing participant: Appellant

Decision date: November 4, 2022

File number: GE-22-2174

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 on January 7, 2022 and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's 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 have to decide whether the Claimant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says that, instead of leaving when she did, the Claimant could have discussed her concerns about the job with her employer, discussed the stress she was experiencing with her doctor, and continued working until she found another job.

[6] The Claimant says that the job wasn't suitable and not a good fit. She says that the job was too stressful due to a dangerous commute and her difficulty learning the employer's computer system. She says that she thought she had found another job. She says that she quit within the three-month probationary period and should be eligible for benefits.

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 the Claimant 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 she quit on January 7, 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 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. 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.³

[14] 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.⁴

[15] The Claimant says she was looking for a job. She says her long-time job as a bookkeeper ended on September 20, 2021. She says the manager of the employer

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 4.

⁴ See section 29(c) of the Act.

became aware that she was looking for a job. She says the manager contacted her. She says she was hired after an informal interview. She started a job with the employer on October 29, 2021.

[16] The Claimant says that she wouldn't have applied for the position with the employer because it was in another town, requiring a dangerous commute, and at a low rate of pay. She says she thought the position was for a bookkeeper, but later found out that the duties were that of a clerk.

[17] The Claimant says the manager told her that the employer would be setting up a site in her town. The manager told her that, with her experience, she could improve their bookkeeping system.

[18] The Claimant says she thought she would give the job a try. She says that she thought that if the job didn't work out, and she left within the three-month probationary period, she would be eligible for benefits.

[19] The Claimant says she left the job because of the following circumstances:

- a) The job wasn't a good fit for her and was causing her stress. She says the job was at a lower rate of pay than her previous job. She says the commute was expensive and dangerous. She says her duties were that of a clerk, not a bookkeeper. She says her previous employment included two long-term jobs as a bookkeeper, so she knew that this job wasn't a good fit for her;
- b) The manager took a leave of absence. She says this means that a site wasn't going to be set up in her town, and she would have to continue with the dangerous commute;
- c) The commute was dangerous. She says she must drive on a single lane highway. She says she doesn't like to drive in the snow, icy conditions, or in the dark. Her usual commute was three minutes. It was now taking her 20 minutes to drive to work. She says she was in an accident in mid-December 2021, due to icy

conditions, and her car was a write-off. She says public transportation isn't available, and carpooling wasn't an option;

- d) She says that she had difficulty learning the employer's computer system. She says she received a lot of training, but she couldn't understand how the system worked. She says she had support from other employees, but eventually they would just do the work for her. She says that she wanted to do a good job, but didn't feel like she was doing a good job. She says that she didn't get any disciplinary reports on her work quality. She says that she wasn't there long enough for the employer to do an evaluation of her work. She told the Commission that her employer told her it takes years to master the computer system; and,
- e) She says that she thought she had found another job. She had a phone interview with another employer. She says she wasn't given a job offer. She says she hadn't reached that stage. She says she has a good reputation in her town, and was optimistic that she would be hired. But she says the job didn't pan out.

[20] 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.⁵

The circumstances that existed when the Claimant quit

[21] The Claimant says that some of the circumstances are set out in the law apply. Specifically, I am considering whether the Claimant had reasonable assurance of another employment in the immediate future. I am also considering working beyond one's area of expertise, transportation problems, and health difficulties.

[22] I find that the Claimant didn't have reasonable assurance of another employment in the immediate future. Her testimony shows that she wasn't given a job offer. She says that she hadn't reached the stage of being offered a job.

⁵ See section 29(c) of the Act.

[23] I find that that the Claimant was working beyond her area of expertise, she had transportation problems, and it led to health difficulties, as follows:

- a) The Claimant testified that she had difficulty learning the employer's computer system, received a lot of training, didn't feel like she was doing a good job, and wasn't using her bookkeeping skills. I find the Claimant's testimony to be credible and her statements consistent with the appeal documents. I find that she thought she was working beyond her area of expertise;
- b) The Claimant testified that she doesn't like to drive in the snow, icy conditions, or in the dark. She says she was in a car accident on her way to work. She says that public transportation or carpooling weren't available. I find that she thought she had transportation problems, as she didn't feel she was able to get to her job safely; and,
- c) The Claimant testified that she was experiencing health difficulties, due to the job's commute and because the job wasn't a good fit. I find that she thought she was experiencing stress due to her job.

[24] The circumstances that existed when the Claimant quit were working beyond her area of expertise, transportation problems, and health difficulties.

The Claimant had reasonable alternatives

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

[26] The Claimant says that she had no reasonable alternative. She provided the following testimony at the hearing:

- a) She says that she had difficulty learning the employer's computer system. She says she couldn't grasp the way the employer did things. She says she had support from other employees, but eventually they would just do the work for her. She says that she wanted to do a good job, but didn't feel like she was doing a good job. She says that she didn't get any disciplinary reports on her work

quality. She says that she wasn't there long enough for the employer to do an evaluation of her work. She says that she knows her skill set and feels like the positions was for someone who isn't a bookkeeper;

- b) The Claimant says that she didn't think to talk to her employer about her commute. She says that if weather conditions were bad, she didn't have the option of working from home because of the employer's computer system. She says that if weather conditions were bad, she would still have to drive into work because otherwise she wouldn't get paid. She says that she would have talked to her employer if she really wanted to stay. However, she couldn't see herself staying at the employer for the long-term;
- c) The Claimant says that she doesn't call her doctor every time she is stressed. She says her doctor is a 30-minute drive away; and,
- d) The Claimant says she couldn't continue working until she found another job because it is difficult to go to job interviews while working outside of her town.

[27] The Commission disagrees and says that, instead of leaving when she did, the Claimant could have discussed her concerns about the job with her employer, discussed the stress she was experiencing with her doctor, and continued working until she found another job.

[28] I find that the Claimant had reasonable alternatives she could have taken. I find that she could have discussed her concerns about the computer system with her employer. The Claimant hadn't received any disciplinary reports or evaluations on her work quality. She had been employed for less than four months, and was told by her employer that the system takes years to master. I find that it would have been a reasonable alternative to discuss her concerns about the computer system, and further training options, before leaving her job.

[29] I find that she also could have discussed her concerns about her transportation problems with her employer. The Claimant says that she didn't think to talk to her employer about her commute. As such, it is unknown whether the employer still

intended to set up a site in her town, even though the manager was no longer working with the employer, or whether the employer would have accommodated her concerns about driving in poor weather conditions. I find that it would have been a reasonable alternative to discuss her concerns about the commute with her employer before leaving her job.

[30] I find that discussing her concerns about the computer system and commute with her employer may have helped resolve her stress. If not, I find it would have been a reasonable alternative for her to discuss the stress she was experiencing with her doctor before leaving her job.

[31] I find that she could have continued working until she found another job. Although it may have been difficult for her to look for a job while employed, the Claimant didn't have reasonable assurance of another job. She had an interview for another job, but says she wasn't at that stage of being hired when she left her job. As it is the responsibility of a claimant to not provoke the risk of unemployment, remaining in employment until a new job is secured is generally a reasonable alternative to quitting a job.⁶

[32] While the Claimant left her job for what may be considered a good personal reason, this is not sufficient to establish just cause under the EI Act.⁷ So, considering all of the circumstances that existed when the Claimant quit, the Claimant had reasonable alternatives to leaving when she did.

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

Conclusion

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

⁶ See *Canada (Attorney General) v. Campeau*, 2006 FCA 376.

⁷ See *Canada (Attorney General) v. Muhammad Imran*, 2008 FCA 17.

[35] This means that the appeal is dismissed.

Kristen Thompson
Member, General Division – Employment Insurance Section