



Citation: *RC v Canada Employment Insurance Commission*, 2022 SST 1576

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

Decision

Appellant: R. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (465681) dated May 5, 2022 (issued by Service Canada)

Tribunal member: Raelene R. Thomas

Type of hearing: Teleconference

Hearing date: September 13, 2022

Hearing participant: Appellant

Decision date: October 3, 2022

File number: GE-22-1775

Decision

[1] The appeal is allowed. The Tribunal agrees with the Claimant.

[2] The Claimant has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Claimant had just cause because she had no reasonable alternative to leaving.

[3] This means she is not disqualified from receiving Employment Insurance (EI) benefits.

Overview

[4] The Claimant left her job on January 19, 2022 and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

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

[6] The Commission says the Claimant could have secured work in the new province she had chosen to move to prior to leaving her job.

[7] The Claimant disagrees and says she was in a long distance relationship and moved to establish a common law relationship. She was on vacation from her job and did look for work in her new province of residence prior to her job ending.

Issue

[8] Is the Claimant 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 the Claimant voluntarily left

[10] The parties, that is the Claimant and the Commission, agree the Claimant voluntarily left her employment when she stopped working on January 19, 2022. I see no evidence to contradict this so I accept as fact the Claimant voluntarily left her job.

The parties don't agree the Claimant had just cause

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

[12] The law says 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.

[13] The law explains what it means by "just cause." The law says you have just cause to leave if you had no reasonable alternative to quitting your job when you did. It says that I have to consider all the circumstances.²

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

[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.⁴

[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.⁵

¹ Section 30 of the *Employment Insurance Act* (EI Act) explains this.

² See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the EI 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

[17] The Claimant testified that her former partner died suddenly a few years ago. She knew her current partner for a number of years and some time after her former partner passed away they developed a long distance romantic relationship. During this time they lived in different provinces. The long distance relationship was ongoing for over two years before she decided to move to her partner's province to establish a common law relationship with her partner.

[18] The Claimant testified that her common law partner has an adult child who is dependent upon him for care and support. Her partner could not move to her province of residence for this reason.

[19] The Claimant visited her common law partner in his province in the fall of 2021. She decided then that she would move to her partner's residence. She returned to her province and gave her employer notice that she was leaving. Her last day of work was January 19, 2022. The Claimant put her house up for sale and started to prepare for the move. She had worked for her employer for over 25 years. Her employer operates only in her province so she could not get a transfer. She asked for a leave of absence but was refused. Her manager told her she could change her mind at any time about leaving her job.

[20] The Claimant thought that she could leave her job, move to the new residence and look for work after the move. She thought that she could be paid EI benefits while she was looking for work. She testified that she was busy with process of selling her house and, once it was sold, removing her possessions from her house.

[21] The Claimant said that she arrived in her partner's province on December 23, 2021. She was on vacation from her job from December 23, 2021 to January 19, 2022. The Claimant had been living and working in a large city. The Claimant said her partner's residence was located in a small town, with several other towns near by. There are no major industries located nearby. It is mostly fishing and tourism. She testified that after she arrived she looked for work at the local store, the grocery store

and the drug store. She spoke to relatives who told her about a position at a restaurant, but when she looked into it the position was filled.

[22] The Commission says the Claimant didn't have just cause, because she had reasonable alternatives to leaving her job when she did. Specifically, it says the Claimant could have secured employment in the new area prior to leaving her job. It says the Claimant made a personal decision to leave her job to relocate to establish a common law relationship. The Commission says that a personal decision does not amount to just cause as per the EI Act. Consequently, it says, the Claimant failed to prove that she left her employment with just cause within the meaning of the EI Act.

[23] The law says a circumstance to be considered is a claimant's "obligation to accompany a spouse, common-law partner or dependent child to another residence."⁶

[24] For the purposes of the EI Act, the Claimant must have cohabitated with her partner for a period of at least one year for her partner to be considered a common-law partner.⁷ The Claimant testified that she and her partner had a long distance relationship. They would live together when they visited each other. The Claimant and her partner did not have immediate plans to marry and are not expecting a child nor do they have a child together. Since the Claimant and her partner did not cohabit for one year prior to her last day of employment, her partner was not a spouse or a common-law spouse in accordance with the EI Act. As a result, I find the Claimant did not have an obligation to follow a spouse or common-law partner to another residence when she left her employment.

[25] In most cases, the claimant has an obligation to show efforts to seek alternative employment before taking a unilateral decision to quit a job.⁸ The Claimant testified that she looked for work when she arrived in the new province. She arrived on December 23, 2021. Although she was on vacation from that date, her employment did not end until January 19, 2022. Her employer said she could remain at work if she changed her

⁶ See section 29(c)(ii) of the EI Act

⁷ See section 2(1) of the EI Act

⁸ This principle is set out in *Canada (Attorney General) v. White*, 2011 FCA 190

mind about moving. This evidence tells me that the Claimant did not leave her employment until January 19, 2022. The Claimant testified that she looked for work with the employers in her new area of residence shortly after she arrived. This evidence tells me the Claimant looked for employment prior to leaving her job.

[26] The obligation is to seek employment, there is no obligation to secure employment. That the Claimant was not successful in getting employment is not determinative of the matter. I find the Claimant exhausted the reasonable alternative of seeking other employment prior to leaving her position because she demonstrated that she looked for work in the new province prior to her employment ending. Accordingly, I find the Claimant's decision to leave her employment meets the test of having just cause to voluntarily leave employment as required by the EI Act and case law described above.

Conclusion

[27] I find the Claimant is not disqualified from receiving benefits.

[28] This means that the appeal is allowed.

Raelene R. Thomas
Member, General Division – Employment Insurance Section