



Citation: *NT v Canada Employment Insurance Commission*, 2023 SST 297

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

Decision

Appellant: N. T.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (531619) dated September 12, 2022 (issued by Service Canada)

Tribunal member: Susan Stapleton

Type of hearing: Videoconference

Hearing date: February 17, 2023

Hearing participant: Appellant

Decision date: February 24, 2023

File number: GE-22-3413

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.

[2] The Appellant hasn't shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Appellant 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 Appellant worked at a mill, as a planer feeder and tilt hoist operator. His children's mother asked him to help her with their four daughters, who were "having problems in school and giving their mother a hard time." His daughters lived with their mother in X, more than four hours away from him. It was too far for him to commute every day to help out. So, he quit his job on April 12, 2021, and applied for EI benefits. He thought his claim for EI benefits would be approved, and he could use that money to move to X.

[4] The Canada Employment Insurance Commission (Commission) looked at the Appellant'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.

[5] The Commission says that the Appellant could have waited to move to X until he found a job there, waited to move to X until he had the funds to move, or asked the employer for a leave of absence from his job.¹

[6] The Appellant disagrees and says he had to quit his job to move to X, because his children's mother needed help taking care of their children.

¹ See GD4-3.

Matter that I have to consider first

The Claimant quit to take care of his daughters

[7] It says in the file that the Appellant told the Commission that he quit his job because he planned to move from the X area, where he lived, to X to help his daughter take care of his grandchildren.² He clarified at the hearing, and I accept, that he quit because he was planning to move to X to help take care of his four daughters.

Issue

[8] I must decide whether the Appellant is disqualified from receiving benefits because he voluntarily left his job without just cause.

[9] To answer this, I must first address whether the Appellant voluntarily left his job. If he did, I then have to decide whether he had just cause for leaving.

Analysis

The parties agree that the Appellant voluntarily left his job

[10] I accept that the Appellant voluntarily left his job. The Appellant agreed in his testimony at the hearing that he quit and his last day worked was April 12, 2022. I see no evidence to contradict this.

The parties don't agree that the Appellant had just cause

[11] The parties don't agree that the Appellant had just cause for voluntarily leaving his job when he did.

² See GD3-24.

[12] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.³ 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.⁴

[14] It is up to the Appellant to prove that he had just cause.⁵ 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.

[15] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when he quit. The law sets out some of the circumstances I have to look at.⁶ The Appellant says that one of the circumstances set out by law applies to him. Specifically, he says that he had an obligation to care for a child or a member of the immediate family.⁷

[16] After I decide which circumstances apply to the Appellant, he then has to show that he had no reasonable alternative to quitting when he did.⁸

The circumstances that existed when the Appellant quit

[17] The Appellant stated in his application for EI benefits that he moved to X on April 15 and 16, 2022. He said that at the time he decided to move, he expected to stay in X for more than 12 months.⁹

[18] On May 30, 2022, the Appellant contacted the Commission and said that he was experiencing financial hardship. He said that he had been evicted from his home and

³ Section 30 of the *Employment Insurance Act* (Act) explains this.

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

⁵ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

⁶ See section 29(c) of the Act.

⁷ See section 29(c)(v) of the Act.

⁸ See section 29(c) of the Act.

⁹ See GD3-9-10.

had to move in with his father, who lives in the X area. He said his truck was about to be repossessed.¹⁰

[19] The Appellant spoke to a Commission Officer on July 6, 2022. He told her he quit his job because he planned to move, to help take care of his daughters. He thought he'd get EI benefits right away, and would be able to use that money to move. But when his claim for EI wasn't approved, he couldn't move to X, because he had no income. He said that things with his daughters seemed to have settled down, so he was no longer needed in X. So he was looking for work in the X area.¹¹

[20] The Appellant spoke to the Commission's Reconsideration Officer on September 12, 2022. A record of their conversation is on the file. The Appellant confirmed that he quit his job to move. He confirmed his earlier statement that he had no income and therefore hadn't been able to move, and that he had been evicted from his home and had moved in with his father.¹²

[21] Given his statements to the Commission, I asked the Appellant at the hearing whether he had moved to X in April, 2022. He said that he did go to X, and that he was there until December, 2022. He said that his father helped him with money so that he could go. He said he returned to live with his father in December, 2022.

[22] I asked the Appellant about his statements to the Commission on May 30, 2022 and July 6, 2022, when he said that he was living with his father at that time, in the X area, and looking for work. He said that he left X at one point, and went back to his father's house, because his children's mother "didn't want him around anymore." He couldn't remember when he left X, and said he thought it might have been in June, 2022. He said he didn't find any work in the X area during that time. He said he went back to X again after that, but he couldn't remember when. He said he moved back to his father's house permanently in December, 2022.

¹⁰ See GD3-22.

¹¹ See GD3-24.

¹² GD3-34.

[23] The law says that only the circumstances that existed at the time a claimant quits can be considered.¹³ So, it doesn't matter whether or when the Appellant went to X after he quit. I find that the Appellant has shown that he quit because he had an obligation to help with the care of his children, and planned to move to X for that reason.

[24] So, the circumstances that existed when the Appellant quit his job were that he planned to move to X in two weeks, to help his children's mother with their care.

Reasonable alternatives

[25] I must now look at whether the Appellant has proven that it is more likely than not that he had no reasonable alternative to leaving his job when he did.

[26] The Appellant says that he didn't have any reasonable alternatives to quitting when he did, because his daughters' mother asked him to go to X, to help her with their care. He thought he would be approved for EI, because he had worked for the employer for three years, and he planned to use that money to move.

[27] The Commission disagrees and says that the Appellant could have waited to move to X until he found a job there, waited to move to X until he had the funds to move, or asked the employer for a leave of absence from his job.

[28] I find that the Appellant had reasonable alternatives to quitting his job when he did.

[29] The Appellant testified that he didn't think to ask his employer if he could take a temporary leave of absence to go to X and help out with his daughters, and then return to his job. I accept that when he quit, the Appellant planned to move to X for more than 12 months. There is no evidence that a leave of absence was offered to him by the employer. So, I don't find that asking for a temporary leave of absence was a reasonable option for him.

¹³ See *Canada (Attorney General) v Lamonde*, 2006 FCA 44.

[30] While I accept that the Appellant quit his job because he planned to move to X to help care for his daughters, he hasn't shown that he had to do so urgently, or immediately. He didn't quit his job immediately. He testified that he gave his employer two weeks' notice that he would be quitting.

[31] The Appellant told the Commission Officer that he looked for work in X before he quit. He said that he filled out a few applications, but hadn't heard back before he quit.¹⁴ The Appellant told the Commission's Reconsideration Officer that he didn't wait to quit his job until he had found a new job in X, because his daughters' mother wanted him there to help her as soon as possible. But he hasn't shown that he couldn't have stayed in his job with the employer, while he looked for a job in X, instead of quitting when he did.

[32] The Appellant testified at the hearing that he gave his employer two weeks' notice that he would be leaving his job. But he said that he didn't apply for any jobs in X before he left his job with the employer. He said that he had looked around online at some places that were hiring, but "didn't get around to applying" for any jobs in X before he quit his job.

[33] I acknowledge that the Appellant told the Commission that he had applied for some jobs in X, but didn't hear back about them before he quit. However, I prefer the Appellant's testimony over his statement to the Commission, because he gave his testimony under oath and answered my questions about this subject clearly and consistently. I think it's likely that he didn't apply for any jobs in X before he quit.

[34] There are many cases from the court imposing an obligation on EI claimants to seek alternative employment, before making a unilateral decision to quit a job.¹⁵ I cannot ignore this obligation, or the fact that the Appellant voluntarily put himself into a position of unemployment, without first making a genuine effort to find another job.

¹⁴ See GD3-24.

¹⁵ Consider the analysis in *White, supra*.

Staying in his job, while he made a genuine effort to look for another one, was a reasonable alternative to the Appellant quitting when he did.

[35] Considering all of the circumstances that existed at the time that the Appellant quit, I find that he has not proven on a balance of probabilities that he had no reasonable alternative to quitting his job when he did. As a result, the Appellant didn't have just cause for leaving his job when he did.

Conclusion

[36] The Appellant has not shown just cause for leaving his job when he did, because he had reasonable alternatives to leaving his job. He is therefore disqualified from receiving benefits.

[37] This means the appeal is dismissed.

Susan Stapleton

Member, General Division – Employment Insurance Section