



Citation: *DK v Canada Employment Insurance Commission*, 2022 SST 1768

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

Decision

Appellant: D. K.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (509388) dated July 20, 2022 (issued by Service Canada)

Tribunal member: Susan Stapleton

Type of hearing: Videoconference

Hearing date: November 10, 2022

Hearing participant: Appellant

Decision date: November 14, 2022

File number: GE-22-2761

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 his job when he did. The Claimant didn't have just cause because he had reasonable alternatives to leaving.

[3] This means the Claimant is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[4] The Claimant left his job to go to school and applied for EI benefits. He said at the hearing that he received benefits from September, 2021 to May, 2022, while he attended school. The Canada Employment Insurance Commission (Commission) decided that he voluntarily left (or chose to quit) his job without just cause, so he wasn't eligible for benefits. This resulted in an overpayment to the Claimant.

[5] I have to decide whether the Claimant has proven that he had no reasonable alternative to leaving his job when he did.

[6] The Commission says that the Claimant didn't have just cause for leaving his employment, because he wasn't authorized by a designated authority to leave his job to attend school. It says he could have chosen to stay in his job instead of making a personal decision to leave his job to go to school.

[7] The Claimant disagrees and says that it is unfair to deny him benefits because he left a part-time job to attend school.

Issue

[8] Is the Claimant disqualified from receiving EI benefits because he voluntarily left his job without just cause?

[9] To answer this, I first have to decide whether the Claimant voluntarily left his job. Then I have to decide whether he had just cause for leaving.

Analysis

The Claimant voluntarily left his employment

[10] To decide whether the Claimant voluntarily left his job, I have to look at whether he had a choice to stay or leave his job at the time he stopped working.¹

[11] At the hearing, the Claimant testified that he could have continued working in his job, if he hadn't decided to leave to go to school.

[12] Both parties agree that the Claimant could have stayed in his job if he hadn't made the decision to leave. So, I find that the Claimant had a choice to stay employed and he chose to leave. This means he voluntarily left his employment.

What it means to have just cause

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

[14] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.² Having a good reason for leaving a job isn't enough to prove just cause.

[15] 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.³

¹ See *Canada (Attorney General) v Peace*, 2004, FCA 56.

² Section 30 of the *Employment Insurance Act* (Act) sets out this rule.

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

[16] It is up to the Claimant to prove that he had just cause.⁴ 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.

[17] When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when he quit.

The circumstances that existed when the Claimant quit

[18] The Claimant testified that he applied to take a carpentry program, when he was in grade 11 in high school. He was accepted into the program halfway into his grade 12 year. He enrolled in the program, to begin in September, 2021.

[19] The Claimant testified that he was not referred to the carpentry program at the time he quit his job. He said at the hearing that he didn't know he could apply to be referred through EI to take the program.

[20] The Claimant testified that when he left his job to go to school, he was only working one or two shifts per week and was earning minimum wage. He wasn't earning enough income to support himself. So, he decided to take the carpentry program. He says that he had no reasonable alternative to leaving his job when he did, because the cost of gas was too high for him to travel an hour each way from school, to work for minimum wage.

[21] The Claimant testified that he started applying for jobs near his school the day he quit his job or the day after. He sent in applications, but didn't hear back from any employers. He was unable to find a job near his school.

[22] He said that the Band Office paid for his carpentry program, and he lived with his grandmother while going to school. He collected EI and paid rent to his grandmother.

[23] The Commission says that the Claimant didn't have just cause because he had reasonable alternatives to leaving when he did. It says that the Claimant could have

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190.

kept working instead of making the personal decision to leave his job to go to school. He could have requested additional hours from his employer, or looked for full time employment or another part-time job with a different employer.

[24] Sometimes, the Commission (or a program the Commission authorizes) refers people to take training, a program, or a course. One of the circumstances I have to consider is whether the Commission referred the Claimant to take the carpentry program.

[25] Case law clearly says that if you quit your job just to take a course without a referral, you don't have just cause for leaving your job.⁵ Both parties agree that the Claimant didn't have a referral to school at the time that he left his job, so this case law applies to him.

[26] So, the circumstances that existed when the Claimant quit his job were that he was working part-time earning minimum wage, and he was enrolled in a carpentry program an hour away from his job. He was not referred to the carpentry program.

Reasonable alternatives

[27] The Commission says that the Claimant didn't have just cause to leave his job because he had reasonable alternatives to leaving when he did. It says he could have asked for more hours from his employer, or looked for full time employment or another part-time job with a different employer. The Commission says that the claimant wasn't authorized to leave his employment to attend school, and could have chosen to continue working instead of making the personal choice to quit his job to go to school.

[28] The Claimant says that he had no choice but to quit his job when he did, because he was starting the carpentry program in September, 2021. He couldn't continue to work at his job, and take the carpentry program an hour away at the same time. The cost of

⁵ See *Canada (Attorney General) v Caron*, 2007 FCA 204.

gas was too high for him to travel an hour to and from work, when he was only being paid minimum wage.

[29] I understand that the Claimant felt he had no choice but to leave his job because he was starting school. But, I find that the Claimant's choice to go to school does not mean he had just cause to voluntarily leave his employment. This is because he had reasonable alternatives to leaving his job when he did.

[30] The Claimant had the reasonable alternative to stay in his job. He could have asked his employer for more hours. He could have looked for another part-time job to supplement his hours at the employer.

[31] I understand that the Claimant may have had good reasons for choosing to leave his job to go to school. He wanted to pursue a career in carpentry. While that is admirable, it was a personal choice, and it goes against the idea of the EI plan.⁶

[32] Considering together all of the circumstances that existed when the Claimant quit his job, I find that he had reasonable alternatives to quitting when he did.

[33] The Claimant did not have just cause to leave his employment. This means he is disqualified from receiving EI benefits.

Conclusion

[34] The Claimant didn't have just cause to voluntarily leave his job. This means that he is disqualified from receiving EI benefits.

[35] The appeal is dismissed.

Susan Stapleton
Member, General Division – Employment Insurance Section

⁶ See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.