



Citation: *MR v Canada Employment Insurance Commission*, 2023 SST 767

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

## Decision

**Appellant:** M. R.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (559599) dated December 23, 2022 (issued by Service Canada)

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**Tribunal member:** Guillaume Brien

**Type of hearing:** Videoconference

**Hearing date:** March 7, 2023

**Hearing participant:** Appellant

**Decision date:** March 15, 2023

**File number:** GE-23-424

## 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. This means he is disqualified from receiving Employment Insurance (EI) benefits.

## Overview

[3] The Claimant left his job as a painter on August 17, 2022, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it could not pay him benefits.

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

[5] The Commission says that, instead of leaving when he did, the Claimant could have:

- Talked about his concerns with his employer
- taken medical leave
- asked for an investigation, or filed a complaint with the union or agencies responsible for enforcing pertinent occupational safety and health legislation

[6] The Claimant disagrees and says that his employer didn't provide him with adequate personal protective equipment (PPE) despite his many requests. He also says that he had no other choice but to quit his job because he had developed health issues. He says that he has the right to refuse dangerous work.

## Issue

[7] Is the Claimant disqualified from receiving benefits because he voluntarily left his 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 his job. The Claimant agrees that he quit on August 17, 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 his job when he 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.<sup>1</sup> 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.<sup>2</sup>

[13] It is up to the Claimant to prove that he had just cause. 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.<sup>3</sup>

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<sup>1</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

<sup>2</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

<sup>3</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

[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.<sup>4</sup>

[15] After I decide which circumstances apply to the Claimant, he then has to show that he had no reasonable alternative to leaving at that time.<sup>5</sup>

### **The circumstances that existed when the Claimant quit**

[16] The Claimant says that one of the circumstances set out in the law applies. Specifically, he says that his working conditions constituted a danger to his health or safety.<sup>6</sup>

#### **– Personal protective equipment (PPE)**

[17] The evidence on the availability of PPE is contradictory.

[18] On the one hand, the Claimant testified that his employer was unwilling to provide him with adequate PPE. He says that, after multiple requests, his employer finally provided him with a bodysuit and dual air filters for a mask three weeks after he began his job. He says that his employer never provided him with a full-face mask during the four months he worked for it.

[19] On the other hand:

- a) S. C., President of X, says that the Claimant stopped showing up for no reason. He says that it has been in business for years and it provided everything to protect its employees.<sup>7</sup>

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<sup>4</sup> See section 29(c) of the Act.

<sup>5</sup> See section 29(c) of the Act.

<sup>6</sup> See section 29(c) of the Act.

<sup>7</sup> See GD3-27.

- b) S., the Claimant's supervisor at X, says that he stopped showing up for work on his last day. She had to call him to find out that he would not go back to work. She says that he was provided with a full bodysuit and masks with ventilation. He initially received the masks the day after he requested them the first couple of times. But, the company later stocked more masks and was able to give them to him right away whenever he asked for one.<sup>8</sup>
- c) A., an office manager who has been working for the company for seven years, says that the employer has always provided protective gear to its employees. It has the full-face masks and all the other gear available. The painters can get them when they need them. The company never had any complaints regarding health and safety.<sup>9</sup>

[20] The evidence available shows conflicting statements about the availability and the adequacy of the PPE provided to the Claimant.

[21] After reviewing the entire file, I find that the Claimant hasn't proven that his employer refused to provide him with adequate PPE. The Claimant hasn't provided any proof regarding his statements. He could have provided affidavits from other employees to back up his statements if they were accurate. Also, the fact that the Claimant willingly misinformed the Commission affects his credibility in an important manner. For instance:

- a) In a statement made to the Commission on December 19, 2022, the Claimant explained that he was admitted to hospital for breathing issues because of his work. He was advised by his doctor to leave his work environment and to change jobs. The Claimant requested two weeks to obtain his medical records and give them to the Commission.

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<sup>8</sup> See GD3-28.

<sup>9</sup> See GD3-31.

b) However, in a subsequent phone call dated December 21, 2022, the Claimant admitted to the Commission that he didn't consult a doctor before quitting. He said that he saw a doctor after he quit since he was sick.

[22] I find that the Claimant hasn't proven that he wasn't provided with adequate PPE by his employer for the following reasons:

- The Claimant willingly misinformed the Commission.
- He didn't provide any proof of his claim regarding the availability or inadequacy of the PPE that was provided to him.
- Three individuals representing the employer directly contradicted his statements.

[23] So, I find that the situation described in section 29(c)(iii) of the *Employment Insurance Act* didn't exist when the Claimant quit his job.

– **Medical conditions**

[24] The Claimant testified that he started developing health issues about a month and a half after starting his job. He says that he:

- could not breathe properly
- was slowly losing weight
- could not eat properly
- could not drive after finishing his work
- could not move his body

[25] I asked the Claimant whether he had gone to see a doctor. He said that he had during the week of August 21, 2022, to August 25, 2022. He said he can't remember the exact date but that it was after he quit his job.

[26] He says that his medical condition is still unclear as of today. He must return to see the doctor in March for further testing. He hasn't provided any medical letter to support his case.

[27] The Claimant was asked whether he had ever discussed his medical problems with his employer. He said that he told S. that he could not drive well, and that he becomes very dizzy. He said that there is only one issue in his case: the lack of PPE, not the medical issue.

[28] The evidence is also mixed as to whether the Claimant had discussed his medical issues with the employer before leaving:

- a) S. C. said that the employer was never made aware of the Claimant's alleged medical issues.<sup>10</sup>
- b) S., the Claimant's supervisor, said that the Claimant never mentioned any health issues. He only said that he was too old to continue to work.<sup>11</sup>

[29] After a full review of the case, I find that the Claimant hasn't proven that he had any health issues before he quit his job. First, the Claimant hasn't provided any medical documentation despite having to meet the burden of proof. Second, the Claimant willfully misinformed the Commission about the date he had seen a doctor for the first time. This made his statements about his medical issues doubtful. There is also no medical proof to support his statements. Third, there is absolutely no proven link between his alleged health issues and the Claimant's situation when he chose to quit.

[30] On the other hand, I have no reason to doubt the statement made by two individuals working for the employer.

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<sup>10</sup> See GD3-27.

<sup>11</sup> See GD3-38.

[31] So, I find that the Claimant hasn't proven that he had any special medical conditions when he chose to quit his job. I also find that the employer was never made aware of any medical conditions before he quit.

### **The Claimant had reasonable alternatives**

[32] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did.

[33] The Claimant says that he had no reasonable alternative because:

- his employer refused to provide him with PPE
- working without adequate PPE was dangerous for his life and affected his health
- he had the right to refuse dangerous work

[34] The Commission disagrees and says that the Claimant could have reported his work conditions to the health and safety board if he wasn't happy with the PPE provided by his employer. He could have also consulted a doctor before quitting.

#### **– PPE availability and adequacy concerns**

[35] The Claimant was asked whether he had ever tried to contact the Commission des normes, de l'équité, de la santé et de la sécurité du travail [Quebec's labour standards commission] (CNESST) regarding his PPE concerns. The Claimant answered: "NO: the processing is big, complicated, time consuming. It's kind of harassment for me. It doesn't work with me."

[36] I don't accept the Claimant's explanations. One of the CNESST's mandates is to protect workers in Quebec. If the Claimant had a genuine concern over the availability or adequacy of the PPE provided, he should have contacted it to report the situation or file a complaint. Contacting the CNESST would have been a reasonable alternative to leaving. Getting in touch with it to make sure that an employer's protective gear is adequate is certainly not harassment.



[37] When asked whether he had tried to transfer to another job within the same company before leaving, the Claimant answered: "NO: because I'm an aircraft cabinet finisher. I'm trained in this line. I'm old enough I cannot carry 50 pounds I cannot do labour job. I do not have any other experience."

[38] I don't accept the Claimant's answers since he is only speculating. A reasonable alternative to leaving his employment would have been to try to get transferred to another job within the same employer before quitting. The Claimant didn't even try to do so.

– **Medical concerns**

[39] The Claimant was asked whether he had consulted a doctor before quitting his job, and he answered: "NO: we don't have a family doctor. When I go I go to the hospital. I didn't go to the hospital before I quit since they only accept patients at the emergency."

[40] Once again, I don't accept these explanations. A reasonable alternative before quitting would have been for the Claimant to obtain a medical letter about his alleged health issues. The Claimant could have gone to the hospital or taken an appointment by using the government portal Clic Santé, which provides medical appointments to people without family doctors. Consulting a doctor before quitting was clearly a reasonable alternative in this case.

[41] The Claimant was asked whether he had requested sick leave before quitting, and answered: "NO: they don't care. If they care they should provide me the masks and the bodysuits that I requested."

[42] Once more, the Claimant's explanations for not having requested sick leave aren't acceptable. He is speculating that his employer didn't care. Yet, he didn't even ask his supervisor if taking sick leave was possible. I find that a reasonable alternative would have been to request sick leave if the Claimant was feeling sick rather than simply quitting his job before even consulting a doctor.

[43] Considering all the circumstances that existed when the Claimant quit, he had reasonable alternatives to leaving when he did, for the reasons mentioned above. He could have:

- a) contacted the CNESST
- b) requested to get transferred within the same company
- c) consulted a doctor before quitting
- d) asked for a leave of absence until he found another job

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

## **Conclusion**

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

[46] This means that the appeal is dismissed.

Guillaume Brien  
Member, General Division – Employment Insurance Section