



[TRANSLATION]

Citation: *RC v Canada Employment Insurance Commission*, 2023 SST 944

**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 (563679) dated February 14, 2023 (issued by Service Canada)

Tribunal member: Manon Sauvé
Type of hearing: Teleconference
Hearing date: April 25, 2023
Hearing participant: Appellant
Decision date: May 10, 2023
File number : GE-23-731

Decision

[1] The appeal is dismissed.

[2] The Appellant hasn't shown just cause for voluntarily leaving his job. He had reasonable alternatives to leaving.

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

Overview

[4] The Appellant was a truck driver for a transportation business. In May 2022, he stopped working because of back pain.

[5] On June 16, 2022, he left his job because his physical condition prevented him from driving the trucks provided by the employer.

[6] He applied for EI benefits. The Commission denied him benefits, since he voluntarily left his job without just cause.

[7] He had reasonable alternatives to leaving. He could have asked his doctor to put him off work, provided proof that he needed a modified vehicle because of his physical limitations, or found another job before voluntarily leaving the one he had.

[8] The Appellant disagrees with the Commission. He wasn't able to drive the trucks assigned to him by the employer.

Issue

[9] Is the Appellant disqualified from receiving benefits because he voluntarily left his job without just cause?

[10] To answer this, I must first address the Appellant's voluntary leaving. I then have to decide whether the Appellant had just cause for leaving.

Analysis

The parties agree that the Appellant voluntarily left

[11] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on June 16, 2022. I see no evidence to contradict this.

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

[12] 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.

[13] The law explains what it means to have just cause for voluntarily leaving your job. 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

[14] It is up to the Appellant 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.³

[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.⁴

[16] After I decide which circumstances apply to the Appellant, he then has to show that he had no reasonable alternative to leaving at that time.⁵

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.

⁵ See section 29(c) of the Act.

The circumstances that existed when the Appellant quit

[17] I note that the Appellant was a heavy truck driver for a transportation business.

[18] From May 1, 2022, to May 13, the Appellant was off work because of back pain. The CNESST⁶ denied his claim for compensation.⁷

[19] The Appellant says that when he went back to work, he asked the employer for a newer truck to avoid getting back pain. His pain was due to the poor condition of the trucks. The employer had newer trucks that would have allowed him to work without pain.

[20] The Appellant provided a short recording showing the vibrations when driving the truck.⁸ I give little weight to this recording, since I don't know what the road conditions were when it was made, the truck isn't identified, and the recording is short.

[21] The Commission gathered information from the employer. The Appellant's CNESST claim was denied. There was no request to accommodate the Appellant while he was driving. He wanted a newer truck. The employer considered certain criteria when assigning a truck. In addition, the truck fleet wasn't old, as the Appellant claims. The truck models were 6 years old at most.

[22] I find that the Appellant voluntarily left his job, since he could not drive some of his employer's trucks.

No reasonable alternative

[23] Now, I have to look at whether the Appellant had no reasonable alternative to leaving at that time.

⁶ Commission des normes, de l'équité, de la santé et de la sécurité du travail [Quebec's labour standards commission].

⁷ GD3-39.

⁸ GD7.

[24] The Appellant says that he had no choice but to quit, since he had back pain. His employer didn't want to assign him a better truck.

[25] The Commission, meanwhile, says that the Appellant hasn't shown that his back problems prevented him from driving a truck. He didn't have a doctor certify his physical limitations with certain trucks. The CNESST didn't recognize his back problems as limitations requiring accommodation.

[26] Moreover, according to the employer, the Appellant wanted a new truck and wasn't happy with the one provided.

[27] The Appellant says that he wasn't able to see a doctor, since a doctor wasn't available. He also doesn't understand his diagnosis, since he knows what he is feeling.

[28] I find that the Appellant had reasonable alternatives to leaving, given the circumstances. He didn't get a medical certificate confirming that his back problems required modified equipment. He hasn't shown that he wasn't able to perform his duties.

[29] In addition, he didn't work with his employer, with medical evidence, to find a reasonable alternative, like having modified equipment or driving certain trucks. Even though the CNESST denied his claim for compensation, this didn't prove that he didn't have pain. Still, medical evidence of his limitations was required. There is no such evidence.

[30] In the circumstances, I find that the Appellant hasn't shown, on a balance of probabilities, that he had just cause for voluntarily leaving his job.

Conclusion

[31] I find that the Appellant is disqualified from receiving benefits.

[32] This means that the appeal is dismissed.

Manon Sauvé
Member, General Division – Employment Insurance Section