



Citation: *CR v Canada Employment Insurance Commission*, 2023 SST 1001

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

Decision

Appellant: C. R.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (552291) dated November 10, 2022 (issued by Service Canada)

Tribunal member: Barbara Hicks

Type of hearing: Teleconference

Hearing date: May 9, 2023

Hearing participant: Appellant

Decision date: May 16, 2023

File number: GE-22-4171

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 left his job as a production operator at a manufacturing plant on June 28, 2022. He applied for EI regular benefits. 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.

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

[5] The Commission says that the Appellant could have asked for modified duties, taken a leave of absence, or found a new job before quitting the one he had.

[6] The Appellant disagrees. He worked on the production line in a small company. There was no union. He did ask for modified duties because of knee and back pain, but the employer could not accommodate him.

[7] The Appellant admits that he didn't provide supporting medical documents when he asked for modified duties. He says he didn't want to take a leave of absence. He did look for another job but quit before he could find one. He wants to receive EI benefits while he searches for a job that doesn't require a lot of standing.

Issue

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

[9] 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

[10] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on June 28, 2022. I see no evidence to contradict this. The Record of Employment dated July 29, 2022, says that the Appellant quit.

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.

[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 by "just cause." The law says that you have just cause to leave if you had no reasonable alternatives 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.³ He has to prove this on a balance of probabilities. This means that he must show that it is more likely than not that his only reasonable option was to quit. When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit.

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 3.

[15] The Appellant says that he quit because the workplace was hot and he was unable to stand for long hours given his pain. Specifically, he has sharp pain in his back and both knees.

[16] The Appellant says that he had no reasonable alternatives to leaving when he did because the employer could not accommodate him. It didn't have appropriate modified duties for him to perform. He did look for another job before he quit. He went on one job interview but didn't get the job. He quit anyway.

[17] During the hearing, the Appellant said he had decided not to make any arguments about the hot work conditions as mentioned in his Notice of Appeal. Instead, he focused on his back and knee pain as the main reason for leaving.

[18] The Appellant admits that he hasn't seen a doctor about the pain but could see his family doctor if he wanted to. He is seeing a physiotherapist, who gives him injections. He didn't provide any medical documentation from the physiotherapist.

[19] I asked the Appellant why he hadn't seen his doctor about his pain. He said that he once injured his neck at work. His employer asked him not to go to the doctor. It was concerned about a possible workplace investigation. The Appellant complied.

[20] I asked the Appellant whether anyone was asking him not to see a doctor now. He agreed that he could see a doctor and said that no one had asked him not to.

[21] While I believe the Appellant about his pain, it can't serve as just cause for quitting when he hasn't even tried to see a doctor about it. A reasonable alternative to quitting would have been to try to get a diagnosis and treatment before quitting.

[22] The Appellant recognizes that he can't perform most production line work anymore, since it usually involves long hours of standing. He is looking for a job that will allow him to sit.

[23] The Appellant says that he has had two or three interviews but hasn't been offered a job. He is very motivated to find a job because he has no savings and is living

on borrowed funds. There are lots of suitable jobs available, and he is hopeful that he will find something soon. In the meantime, he wants to receive EI benefits.

[24] The Commission says that the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Appellant could have asked for modified duties, taken a leave of absence, or found a new job before quitting the one he had.

[25] I agree that the Appellant had reasonable alternatives. Although his employer could not accommodate him with modified duties, he could have asked for a leave of absence. He says he didn't ask for one because, to his knowledge, the employer had never granted any. Still, he should have asked. Given his financial position, it was very risky for him to quit his job in the hopes of receiving EI benefits.

[26] While I am sympathetic to the Appellant's position, he hasn't proven that he had just cause for leaving. He had reasonable alternatives to quitting.

[27] It might have been more appropriate for the Appellant to apply for sickness benefits, since his pain was his main reason for quitting. An application for sickness benefits would have required a medical certificate.

Conclusion

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

[29] This means that the appeal is dismissed.

Barbara Hicks

Member, General Division – Employment Insurance Section