



Citation: *FD v Canada Employment Insurance Commission*, 2023 SST 1020

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

Decision

Appellant: F. D.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (570736) dated February 16, 2023 (issued by Service Canada)

Tribunal member: Amanda Pezzutto

Type of hearing: In person

Hearing date: June 7, 2023

Hearing participant: Appellant

Decision date: June 12, 2023

File number: GE-23-727

Decision

[1] F. D. is the Appellant. The Canada Employment Insurance Commission (Commission) says it won't pay Employment Insurance (EI) benefits. The Appellant is appealing this decision to the Social Security Tribunal (Tribunal).

[2] I am dismissing the Appellant's appeal. I find that he quit his job. And I find that he hasn't shown that quitting his job was the only reasonable thing left he could do, in his circumstances. So, I find that he hasn't proven that he has just cause for quitting his job. This means he can't get EI benefits until he works enough hours to qualify again for EI benefits.

Overview

[3] The Appellant took parental leave from his job. During his leave, he travelled to India and started a homeopathic treatment program. The homeopathic practitioner suggested that he stay longer in India to finish the course of treatment. So, the Appellant asked his employer to extend his leave. But his employer refused. They told him that he had to return to work on the date they had already agreed on. So, the Appellant quit his job. He applied for EI regular benefits a few months later.

[4] The Commission says it won't pay EI regular benefits. This is because the Commission says the Appellant hasn't proven that quitting his job was his only reasonable alternative, under the circumstances. The Commission says this means he doesn't have just cause for leaving his job.

[5] The Appellant disagrees. He says that he had to quit because the homeopathic practitioner recommended that he stay in India for treatment. He says that he had to pursue this kind of treatment because he had side effects from the medication his doctors in Canada prescribed to him.

Issue

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

[7] To make this decision, first I have to decide why the Appellant stopped working. Did he quit (in other words, voluntarily leave) his job?

[8] If he did quit, then I have to decide if he had just cause for leaving. I have to decide which circumstances existed when he quit. And I have to decide if he had reasonable alternatives to leaving his job, given those circumstances.

Analysis

The Appellant and the Commission agree that the Appellant chose to leave his job

[9] The Commission says the Appellant stopped working because he quit. The Appellant agrees. He says that he originally left his job to go on parental leave. While he was still on parental leave, he quit his job on May 5, 2022.

[10] The Appellant has always said that he chose to leave his job. There isn't anything in the appeal file that makes me think he stopped working for any other reason.

[11] So, I accept that the Appellant stopped working because he quit his job. He had the choice to stay or leave, and he chose to leave his job. The law calls this voluntary leaving.

The Appellant and the Commission disagree about whether he had just cause for leaving his job

[12] The Appellant and the Commission disagree about whether the Appellant had just cause for leaving his job. The Commission says he had reasonable alternatives to leaving. But the Appellant says he had to leave his job.

[13] 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.

[14] 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.²

[15] 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

[16] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit. The law sets out some of the circumstances I have to look at.⁴

[17] 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

The circumstances that existed when the Appellant quit

[18] The Appellant says that he was getting homeopathic treatment in India when he left his job. He says that the practitioner recommended that he stay in India to get treatment for longer. He says I should consider this circumstance when I decide if he had just cause for leaving.

[19] The Appellant has always given the same explanation for why he left his job. He has rheumatoid arthritis. His doctors in Canada prescribed medication, but he didn't like the side effects. He decided to seek out homeopathic treatment. He travelled to India

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.

with his family during his parental leave and started to see a homeopathic practitioner there. The practitioner advised him to stay in India longer to keep getting this treatment.

[20] At the hearing, the Appellant said he didn't want to see a homeopathic practitioner in Canada because they had to import their homeopathic medication. He said that he felt it would be better to get this kind of treatment in India.

[21] The Appellant also agreed that his doctors in Canada didn't advise him to seek out homeopathic treatment. He said it was his personal decision to pursue this kind of treatment.

[22] The Commission hasn't said it disputes any of the Appellant's statements about his health and his decision to pursue homeopathic treatment. So, I accept the Appellant's statements.

[23] The Appellant made a personal decision to pursue homeopathic treatment for his health in India. The homeopathic practitioner recommended that he stay longer to finish a course of treatment. These are the circumstances I will consider when I decide if he had just cause for leaving his job.

[24] Now, I must decide if he had reasonable alternatives to leaving his job, considering these circumstances.

The Appellant had reasonable alternatives

[25] The Appellant says he had to leave his job. He says he had to stay in India to finish his treatment. He says his employer wouldn't let him extend his leave, so he had to quit.

[26] The Commission disagrees. The Commission says it would have been reasonable for the Appellant to return to work as scheduled. The Commission says he made a personal decision to leave his job.

[27] I agree with the Commission. I find that the Appellant had reasonable alternatives to leaving his job. He hasn't proven that leaving his job was the only reasonable thing left he could do, given his circumstances.

[28] I give a lot of weight to the fact that the Appellant's doctors in Canada didn't refer him to homeopathic treatment. In particular, they didn't advise him to travel to India to pursue homeopathic treatment.

[29] And I don't think the Appellant has shown that he could only pursue homeopathic treatment in India.

[30] At the hearing, I asked the Appellant why he couldn't continue the homeopathic treatment in Canada. He said that homeopathic practitioners in Canada imported their medication. But he didn't explain why this made homeopathic treatment unsuitable.

[31] I also asked if he asked the practitioner in India for a referral to a practitioner in Canada. He said that he didn't ask because the practitioner wouldn't have known who to refer him to in Canada.

[32] I asked the Appellant if the practitioner in India could have given him medication to continue his course of treatment in Canada. He said that this wouldn't work because he had to get regular check ups from the practitioner. But he said that the practitioner gave him a three-month supply of medicine when he eventually left India.

[33] I understand that the Appellant has reasons why he didn't ask for a referral to a homeopathic practitioner in Canada or why he didn't ask for a supply of medicine to take with him to Canada. But I don't think he has given enough of an explanation for why these options weren't reasonable alternatives to quitting his job.

[34] I think it would have been reasonable for the Appellant to return to Canada when his employer expected him to return to work. He made a personal decision to seek homeopathic treatment in India, but his doctor in Canada didn't refer him to this treatment. He hasn't proven that he couldn't access homeopathic treatment in Canada.

[35] Many workers pay into the EI fund. To respect the other people who pay into the EI fund, you must always show that you tried to avoid unemployment.⁶ This is why you have to show that leaving your job was the only reasonable thing left you could do, given your circumstances.

[36] I don't think the Appellant has proven that leaving his job was the only reasonable thing left he could do. I find that he had reasonable alternatives to leaving his job. So, I find that he hasn't proven that he had just cause for leaving his job.

Conclusion

[37] I am dismissing the Appellant's appeal. I find that he had reasonable alternatives to leaving his job, in his circumstances. I find that he hasn't proven that he had just cause for leaving his job. This decision means he can't get EI benefits.

Amanda Pezzutto
Member, General Division – Employment Insurance Section

⁶ In *Tanguay v. Unemployment Insurance Commission*, A-1458-84, the Federal Court of Appeal says that a claimant is only justified in asking others to bear the burden of their unemployment if the circumstances excuse it.