



Citation: *MA v Canada Employment Insurance Commission*, 2023 SST 1003

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: M. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (569075) dated February 7, 2023 (issued by Service Canada)

Tribunal member: Edward Houlihan

Type of hearing: In person

Hearing date: May 1, 2023

Hearing participant: Appellant

Decision date: May 23, 2023

File number: GE-23-502

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 on April 22, 2022, and applied for EI 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 alternative to leaving his job.

[5] The Appellant was involved in an altercation with other employees in the office. He left and refused to go back to his job.

[6] The Commission says that the Appellant could have stayed with the company in a different job that was already in the works with the owner. He could have talked to his employer about the incident to find a solution or could have asked for a leave of absence.

[7] The Appellant disagrees and says that he could not go back to that job. He didn't feel safe in the office anymore. No matter the job, he would have been near the employees involved in the altercation.

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] The Commission initially decided that the Appellant was let go for misconduct. The Appellant asked the Commission to reconsider, saying he chose to quit after the altercation. The employer said it didn't let him go; he chose not to show up for work. The Commission then decided that the Appellant voluntarily left his job.

[11] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on April 22, 2022. I see no evidence to contradict this.

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

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

[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.³ 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. When I decide whether the Appellant had

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.

just cause, I have to look at all of the circumstances that existed when the Appellant quit.

– **The incident in the office**

[16] The Appellant worked with other employees as part of a dispatch team for a transportation company. It was a busy and loud workplace.

[17] On the day of the incident, the Appellant was on the phone with a customer. Another employee began yelling at him that they didn't need that information anymore. That employee then grabbed the Appellant's arm to put an end to the call.

[18] The employee was hit in the face with the phone. When another employee tried to step in, the Appellant punched him in the face. Other employees grabbed the Appellant and held him.

[19] The Appellant left the office and called the police. The police investigated the incident, which was caught on video in the office.

[20] The Appellant says that the police believed he was at fault because he had thrown the phone at another employee. The police didn't lay any charges.

[21] The owner of the company tried to contact the Appellant to discuss what had happened. The Appellant never replied.

[22] When the incident happened, the Appellant was about to move to a job in the accounting department of that same company. He had been working a few days a week in that department with a different group of employees.

[23] The Appellant says that he left his job because he didn't feel safe in the office anymore. He was afraid something like this would happen again.

[24] The Appellant says that he had no reasonable alternative to leaving when he did. He says that:

- moving to the accounting department wasn't a solution because he would have still been close to the employees involved in the incident
- he didn't contact the employer because he didn't think there was any change in the job or the office that could make him feel safe
- his parents told him not to go back to the company

[25] 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 done any of the following:

- He could have gone to work in the accounting department as planned.
- He could have tried to make different arrangements with his employer if he was worried about the office set-up.
- He could have taken a leave of absence.
- He could have found another job before leaving this one.

[26] I find that the Appellant had reasonable alternatives to leaving his job. He chose not to explore them.

[27] There is no reasonable evidence that the job was unsafe for the Appellant. I understand that the incident upset him, but there was no indication that it would happen again.

[28] In addition, the employer said that there was another job for the Appellant in the accounting department. It wanted to discuss the incident with him and see whether they could resolve the issues at work. The Appellant didn't respond.⁴

Conclusion

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

[30] This means that the appeal is dismissed.

Edward Houlihan

Member, General Division – Employment Insurance Section

⁴ See GD3-38.