



Citation: *DL v Canada Employment Insurance Commission*, 2023 SST 1107

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

# **Decision**

**Appellant:** D. L.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (582129) dated April 24, 2023 (issued by Service Canada)

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**Tribunal member:** Ambrosia Varaschin

**Type of hearing:** Teleconference

**Hearing date:** June 27, 2023

**Hearing participants:** Appellant  
Appellant's support person

**Decision date:** June 27, 2023

**File number:** GE-23-1448

## 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 with X on January 29, 2023, 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 Commission says that the Appellant said he was well treated and would still be employed if he didn't quit his job. The only reason he gave for leaving his employment was because he believed he had enough insurable hours for an EI claim. Leaving his employment in order to be able to apply for EI benefits was a personal choice, and that isn't just cause.

[6] The Appellant disagrees and states that he decided to stop working because he had to focus on personal legal problems.

## Issue

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

[8] 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

### Did the Appellant voluntarily leave employment?

[9] I accept that the Appellant voluntarily left his job. The Appellant and Commission agree that he quit on January 29, 2023. I see no evidence to contradict this.<sup>1</sup>

### Did the Appellant have just cause?

[10] The Appellant didn't have just cause for leaving his job when he did.

[11] EI benefits aren't part of a social benefit or assistance program. Employment Insurance is an **insurance** program. Employees and employers both contribute premiums, and, like any insurance plan, employees can collect benefits from the program if they meet certain criteria.

[12] The purpose of the EI program is to compensate persons who are without work because of things outside of their control. It isn't intended to benefit people who choose not to work or lose their employment by their own actions.<sup>2</sup> As with other insurance plans, claimants can't deliberately risk unemployment, or turn what was only a risk of unemployment into a certainty, and expect to receive benefits.<sup>3</sup>

[13] The law says that you are disqualified from receiving benefits if you chose to leave your job and you didn't have "just cause."<sup>4</sup> Having a *good reason* for leaving a job isn't the same as *just cause*.<sup>5</sup> The law says that you have just cause if, given all your circumstances, you had no reasonable option other than leaving your job when you did.<sup>6</sup>

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<sup>1</sup> See GD03-22 and GD03-25.

<sup>2</sup> See *Canada (Canada Employment and Immigration Commission) v Gagnon*, [1988] 2 S.C.R. 29; *Canada (A.G.) v McLaughlin* 1995 FC 734; and *Canada (A.G.) v Debono* (1983), 49 N.R. 200 (FCA).

<sup>3</sup> See *Canada (Attorney General) v Langlois*, 2008 FCA 18; *Tanguay v Unemployment Insurance Commission*, 1458-84; and *Canada (A.G.) v Melanson*, A-691-94.

<sup>4</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

<sup>5</sup> See *Canada (Attorney General) v Imran*, 2008 FCA 17.

<sup>6</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

[14] The Appellant has to prove that he had just cause.<sup>7</sup> 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>8</sup>

[15] The Appellant says that he left his job because he has an ongoing case with Child and Family Services as well as a criminal charge for assault currently at the Court. Both of these matters may require him to enter into addictions and behaviour treatment programs. The Appellant says that he had no reasonable alternative to leaving at that time because he couldn't work with the ongoing litigation.

[16] The Appellant testified that he "goes on EI almost yearly," and that this is the first time he has been denied benefits. He says that he went to work for X because his previous, regular employment didn't provide enough insurable hours for a claim for EI benefits. He said once he knew he had enough insurable hours he stopped working and applied for benefits.

[17] The Appellant says that the nature of his work with X could be a full day or part of day, and he can refuse work or take a day off without a problem. He says "they call you and say they need you," and he can say yes or no.

[18] The Appellant says that he isn't working right now because he doesn't want to "get more hours and get into trouble," and also that he can't work and "fight the government" at the same time. He says he's trying to "straighten [his] life out" and "get [his] kids back." He says that he needs EI benefits so that he doesn't become homeless while going through his legal battles and attending any treatment programs the Court might order for him.

[19] 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 didn't have any reason to quit his job, so he could have just kept working at X.

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<sup>7</sup> See *Green v Canada (Attorney General)*, 2012 FCA 313; *Canada (Attorney General) v White*, 2011 FCA 190; *Canada (Attorney General) v Patel*, 2010 FCA 95.

<sup>8</sup> See *Canada (Attorney General) v Laughland*, 2003 FCA 129.

[20] The Appellant did give a reason why he quit his job during his testimony—he wanted to focus on his Child and Family Services case and his criminal charges. He didn't elaborate what about this situation prevented him from working, even when asked. He just said he couldn't work while dealing with his legal troubles, and stressed he couldn't work if/when he would be sent to rehab or anger management.

[21] The reasons he provided are personal issues, and while he might feel he had a good reason to quit his job, that isn't the same as just cause. The Court says personal reasons generally aren't good cause to refuse suitable employment,<sup>9</sup> so they aren't just cause for quitting a job. Specifically, it has consistently been found that civil, criminal, or misconduct allegations aren't just cause for quitting because the claimant's own behaviour has created the very circumstances that lead to leaving employment.<sup>10</sup>

[22] So, I find the Appellant didn't have just cause to leave his job.

### **Were there reasonable alternatives?**

[23] Even if the Appellant's reasons were acceptable as just cause, he left his job sooner than he needed to. The conditions of his work allowed him to take days off to attend court hearings and appointments as necessary. The Appellant's legal troubles are not finalized, so he doesn't know when he might need to attend a treatment program, or even if this will be a requirement for him. So, he could have continued working until he needed to attend a treatment program.

[24] If you leave your job sooner than you need to, without a separate reason that creates just cause, the Court says you can't receive EI benefits.<sup>11</sup>

[25] So, the Appellant had a reasonable alternative to leaving his employment when he did.

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<sup>9</sup> See *Canada (Attorney General) v Bertrand*, A-613-81.

<sup>10</sup> See CUBs 26602, 16309, 59128, and 57292. See also *C. S. v. C.E.I.C. and X*, 2019 SST 601.

<sup>11</sup> See *Canada (A.G.) v Patterson* (1996), 206 N.R. 7 FCA. See also CUBS 33680, 58512, 58518, 73930, 75984, 76013, 76395, and *L. N. v. C.E.I.C.*, 2019 SST 780. Specifically in CUB 69665: at the time claimant left her employment she had the reasonable alternative of continuing in employment until the restructuring was completed.

## Conclusion

[26] The Appellant made a personal choice to leave his job and he had a reasonable alternative to quitting when he did. While he may have had good personal reasons, that is not the same as just cause under the law.<sup>12</sup>

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

[28] This means that the appeal is dismissed.

Ambrosia Varaschin  
Member, General Division – Employment Insurance Section

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<sup>12</sup> See *Canada (Attorney General) v White*, 2011 FCA 190; and *Tanguay v Canada (Unemployment Insurance Commission)*, A-1458-84.