



Citation: *SA v Canada Employment Insurance Commission*, 2023 SST 1242

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

Decision

Appellant: S. A.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (582651) dated April 26, 2023
(issued by Service Canada)

Tribunal member: Elyse Rosen

Type of hearing: IN WRITING

Decision date: July 4, 2023

File number: GE-23-1205

Decision

[1] The appeal is dismissed.

[2] I find that the Appellant voluntarily left his job without just cause. This means that the Appellant is disqualified from receiving Employment Insurance (EI) benefits.¹

Overview

[3] The Appellant came to Canada from Lebanon.

[4] He couldn't find a job in his field, so he accepted a job as a dishwasher.

[5] The Appellant says he was asked to perform tasks that he claims were not part of his job description. On his last day of work, he had a confrontation with his supervisor over his refusal to perform tasks which the Appellant considered were not his responsibility.

[6] Following the confrontation, the Appellant quit his job and applied for EI benefits.

[7] The Canada Employment Insurance Commission (Commission) says it can't pay him benefits because he left his job voluntarily without just cause.

[8] The Appellant claims the job wasn't a suitable job for him, because it wasn't in his field. He argues that he shouldn't have to perform tasks that are not part of his job description. He says his supervisor yelled at him, which made him uncomfortable. He believes that in these circumstances he had just cause to quit.

Matter I have to decide first

The method of hearing was changed

[9] The hearing of this appeal was initially scheduled to take place via teleconference on July 4, 2023.

¹ Section 30 of the *Employment Insurance Act* (Act) says that Appellants who voluntarily leave their job without just cause are disqualified from receiving benefits.

[10] The Appellant asked the Tribunal to change the method of hearing to a hearing in writing. This is because he is travelling in Lebanon and can't attend a teleconference hearing while he is away.

[11] The Tribunal accepted his request to change the method of hearing. It asked him to provide whatever additional documents he felt the Tribunal might require. It also asked him to respond to certain arguments made by the Commission.

[12] The Tribunal received further documents from the Appellant in answer to its requests.

[13] The Tribunal is relying on all of the documents in the record to make this decision.

Issue

[14] Did the Appellant leave his job voluntarily without just cause?

Analysis

[15] To decide this appeal, I must first determine whether the Appellant left his job voluntarily. If he did, I have to decide if he had just cause to leave.

Did the Appellant leave his job voluntarily?

[16] Yes. The Appellant left his job voluntarily.

[17] The Appellant says he quit his job. The Commission and the Appellant's employer agree.

[18] On January 9, 2023, there was an exchange of correspondence between the Appellant and his employer which makes it clear that the Appellant quit his job.²

² See GD3-27 and GD3-28.

[19] I therefore find that the Appellant left his job voluntarily.

Did the Appellant have just cause to leave his job?

[20] No. The Appellant didn't have just cause to leave his job.

[21] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause to do so.³ Having a good reason for leaving a job isn't enough to prove just cause.

[22] The law says that you have just cause if you had no reasonable alternative to quitting your job when you did. I have to consider all the circumstances at the time the Appellant left his job when I decide if he had a reasonable alternative to leaving.⁴ The law sets out some of the circumstances I have to look at.⁵

[23] 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's more likely than not that his only reasonable option was to quit.⁶

[24] After I decide which circumstances apply in the Appellant's case, he then has to show that he had no reasonable alternative to leaving at that time.⁷

The circumstances that existed when the Appellant quit

[25] The law provides a list of circumstances I should consider when I decide if a claimant has just cause to leave their job. They include:

- antagonism (in other words, bad blood) with a supervisor, if the claimant is not primarily responsible for the antagonism⁸

³ See section 30 of the Act.

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3 and section 29(c) of the Act.

⁵ See section 29(c) of the Act.

⁶ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

⁷ See section 29(c) of the Act.

⁸ See section 29(c)(x) of the Act.

- significant changes in work duties⁹

[26] I find that neither of these circumstances exist in this case.

i. Antagonism

[27] The Appellant says that his supervisor spoke to him in a confrontational manner when he refused to take on additional duties that were outside his job description.

[28] A one-time incident isn't sufficient to conclude that antagonism with a superior is a circumstance that could give rise to just cause for the Appellant to leave his job voluntarily.

[29] In all events, the Appellant was responsible for his supervisor's reaction because he refused to complete the tasks assigned to him.

[30] I can't conclude that antagonism with his supervisor is a circumstance that exists in this case. And, if it did it exist, I can only conclude from the evidence that the Appellant was primarily responsible for it.

ii. Significant changes in work duties

[31] The Appellant says he was asked to perform tasks that weren't in his job description. He was hired as a dishwasher for the dessert section. He was asked to help with dishes in the meat section.

[32] I don't see this as a significant change in work duties. I consider it perfectly reasonable for a dishwasher to be asked to wash dishes, even if they aren't the dishes from his usual section.

[33] So, I can't conclude that the change in work duties is a circumstance that could give rise to just cause for him to leave his job.

⁹ See section 29(c)(ix) of the Act.

iii. Other circumstances

[34] The sense that I get from the documentation in the file is that the Appellant considered the dishwashing job beneath him. He says that he only accepted the job because he couldn't find a job in computer science and software engineering—the field he is trained in.

[35] Although I understand that the Appellant would prefer to work in his field, if he is unable to obtain employment in that field and wants to work, he has to lower his standards. It strikes me from the various emails he sent to the Tribunal that the Appellant is unwilling to do that.

[36] What the Appellant calls a “misalignment with professional qualifications” is not a circumstance that gives rise to just cause for leaving a job.

Reasonable alternatives to quitting

[37] From the evidence, I can't conclude that the Appellant had no reasonable choice but to quit his job.

[38] The Appellant quit after one contentious episode with his supervisor. He didn't speak to human resources or anyone else in authority when this occurred. Rather, he simply quit.

[39] He says he should have been paid for the extra work he was being asked to do. However, there is no evidence that he attempted to negotiate additional payment before deciding to quit.

[40] There is also no evidence that he was required to do unreasonable amounts of overtime to complete the additional tasks assigned to him. In fact, his record of employment indicates that he never worked more than 36 hours in a week.¹⁰

¹⁰ See GD3-15.

[41] If the Appellant was dissatisfied with his job or felt that too much was being asked of him, he could have gotten another job before leaving.

[42] The Appellant provided some documentation showing that since leaving his job he has been looking for other work. However, there is no evidence he tried to look for work before quitting his job as a dishwasher. I also note that his efforts have been focussed on finding work in his field. It appears he is unwilling to take a humbler position to ensure that he can work.

[43] There was no urgency to the Appellant's decision to quit. The altercation he had with his supervisor on his last day of work certainly doesn't strike me as serious enough to have decided to quit immediately, without exhausting other alternatives.

[44] So, I find that the Appellant hasn't proven he had just cause to leave his job when he did. I conclude that he had other reasonable alternatives in the circumstances.

Conclusion

[45] I find that the Appellant voluntarily left his job without just cause. Because of this, the Appellant is disqualified from receiving EI benefits.

[46] This means that the appeal is dismissed.

Elyse Rosen

Member, General Division – Employment Insurance Section