



Citation: *AM v Canada Employment Insurance Commission*, 2023 SST 1302

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

Decision

Appellant: A. M.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (571200) dated February 21, 2023 (issued by Service Canada)

Tribunal member: Audrey Mitchell
Type of hearing: Videoconference
Hearing date: April 6, 2023
Hearing participant: Appellant
Decision date: April 12, 2023
File number: GE-23-661

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 an assembler on June 24, 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 Commission says the Appellant could have continued working while looking for alternate work. It says he could also have taken a second medical leave and looked for work compatible with his health.

[6] The Appellant disagrees and states that his employer pressured him, leaving him no other option than to quit his job

Matter I have to consider first

The Appellant asked me to reschedule the appeal

[7] The Appellant asked for an in-person hearing. The hearing was originally scheduled for May 4, 2023. The Appellant asked to reschedule the hearing to an earlier date. He also asked to have the hearing by videoconference. The hearing was rescheduled for reasons of fairness.

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 24, 2022. I see no evidence to contradict this.

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 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 alternative 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 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 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 he left his job because his employer told him to take a medical leave or quit. He says he had no reasonable alternative to leaving at that time because of this pressure.

[16] The Commission says the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says the Appellant could have continued working while looking for alternate work. It says he could also have taken a second medical leave and looked for work compatible with his health.

[17] I find that the Appellant left his job because he didn't want to re-injure his knee at work. But I find had reasonable alternatives to leaving his job when he did.

[18] In his application for EI benefits, the Appellant said he quit his job for health or medical reasons. He said the working conditions at his job caused his medical condition. The Appellant said he asked his employer to transfer him to another position, but his employer denied his request.

[19] The Appellant testified that he was working one day and noticed his knee was swollen. He explained that he had felt pain in his knee before and had informed his manager, but the manager didn't take care of it. So, the Appellant left work and saw his doctor.

[20] The Appellant told the Commission that he took medical leave from April 19 to June 16, 2022. He sent the Commission a short-term disability case form with details of his medical condition. The doctor diagnosed the Appellant with right knee strain and the Appellant should avoid excessive walking and standing until June 15, 2022. He gave a return-to-work date of June 16, 2022.

[21] The Appellant returned to work on June 16, 2022. The Commission's file notes reflect that the Appellant said when he returned to work, his employer told him he was too slow, and his performance was not acceptable and suggested he take another medical leave or quit his job.

[22] The Appellant testified that he was supposed to start a modified job, but his employer put him back to work at his usual job. He said that on June 23, 2022, his employer told him that he either had to go back on medical leave or he had to quit. He said his employer pressured him to quit. The Appellant said he decided to quit the job and use the time to heal and become strong.

[23] I find the Appellant's testimony that he quit his job to heal and become strong more reliable than his evidence that his employer pressured him to quit. I do so because it is consistent with what he said in his application for benefits and what he told the Commission. He said he asked his employer for different work. He wanted duties suitable to his health and education. But the employer denied his request.

[24] I have no reason to doubt the Appellant's testimony that there were no problems with his performance when he returned to work in June 2022. But I find it likely that the reason his employer gave him the option of returning to medical leave or looking for another job was based on his request to the employer for different work. And in response, the Appellant chose to leave his job.

[25] The Appellant referred to health and safety negligence at work in his notice of appeal. He testified that there was no health and safety representative at work. I asked him what his health and safety concerns were. The Appellant referred to the pain in his leg and said his manager didn't direct anyone to help him.

[26] The Appellant confirmed that he didn't speak to anyone other than his manager about his health and safety concerns. He suggested that he didn't know that this was something he could do. But I don't find he gave enough detail about his health and safety concerns to show that this is what caused his injury and led him to leave his job.

[27] The Appellant told the Commission that he didn't look for another job before he quit his job. He said the same thing in his application for benefits. In the application, he said the reason he didn't look for another job was that he was expecting another job assignment with his employer suitable to his health and education background.

[28] Despite the Appellant saying that his employer pressured him to quit his job, I find that he could have stayed at his job while he looked for another suitable job. I find that he could have explained this to his employer at the meeting on June 23, 2023. Since he confirmed that he had no issues with knee after he returned to work, I don't find that there was any urgency to leave when he did.

[29] I also find that the Appellant could have tried to take leave other than medical leave to look for another job. This would also have given him more time to heal, if necessary, before possibly starting a new job.

[30] Based on the above, I find that the Appellant had reasonable alternatives to leaving his job. So, I don't find that he has proven that he had just cause to leave his job when he did.

Conclusion

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

[32] This means that the appeal is dismissed.

Audrey Mitchell
Member, General Division – Employment Insurance Section