



Citation: *LC v Canada Employment Insurance Commission*, 2023 SST 1311

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: L. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (548379) dated December 12, 2022 (issued by Service Canada)

Tribunal member: Paula Turtle

Type of hearing: Videoconference

Hearing date: March 24, 2023

Hearing participant: Appellant

Decision date: April 17, 2023

File number: GE-23-202

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

[2] The Claimant has not shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Claimant did not have just cause because he had reasonable alternatives to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left his job as a design engineer on June 1, 2022, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it was not able to pay him benefits.

[4] I have to decide whether the Claimant has proven that he had no reasonable alternative to leaving his job.

[5] The Claimant explained what happened before he quit his job. Another employee quit. The employer was trying to hire a replacement for them. The employer assigned the duties of the employee that quit to the Claimant and one other employee. After he did those duties for about two months, the Claimant quit.

[6] The Commission says that, instead of leaving when he did, the Claimant could have kept working until he found another job. Or he could have given his employer a doctor's note confirming that the new duties were affecting his well-being.

[7] The Claimant disagrees. He says the new work duties were below his skill level. This was humiliating. He thought the new work duties could be permanent. To do the new work duties, he had to go back to in-person work. This was hard on his family.

Issue

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

[9] To answer this, I must first address the Claimant's voluntary leaving. I then have to decide whether the Claimant had just cause for leaving.

Analysis

The Claimant voluntarily left

[10] I find that the Claimant voluntarily left his job.

[11] The Claimant argues that he did not quit his job. The Claimant says that he was constructively dismissed. He sent his employer an e mail that said his job had changed so he had no alternative but to leave.

[12] In deciding if the Claimant quit, I have to decide if the Claimant had a choice to stay or leave.¹ The Claimant could have continued to work for his employer but he decided to leave. This means that the Claimant voluntarily left his job. In other words, he quit.

[13] I will look at the Claimant's argument that he had no alternative to quitting in the next section of my decision, where I decide whether the Claimant had just cause to leave when he did. But that is a separate issue from whether the Claimant quit.

The Claimant did not have just cause

[14] The Claimant did not have just cause for leaving his job when he did.

[15] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.² Having a good reason for leaving a job isn't enough to prove just cause.

¹ See *Canada (Attorney General) v Peace*, 2004 FCA 56.

² Section 30 of the *Employment Insurance Act* (Act) explains this.

[16] 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.³

[17] It is up to the Claimant 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.⁴

[18] When I decide if the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit. The law sets out some of the circumstances I have to look at. The circumstances include significant changes in a claimant’s work duties.⁵

[19] After I decide which circumstances apply to the Claimant, he then has to show that he had no reasonable alternative to leaving at that time.⁶

The circumstances that existed when the Claimant quit

[20] The Claimant says that one of the circumstances set out in the Act applies to him. He says that there were significant changes in his work duties.⁷

[21] I find that there were not significant changes to the Claimant’s work duties. That is because the change in his work duties would not last forever. He had to do some new work duties because someone else quit. They were trying to hire a replacement technician. And, the return to in-person work was a return to the usual practice, not a change to his work duties.

[22] The Claimant is a professional engineer with a master’s degree. He worked as a design engineer. It is a highly skilled job. He would come up with new ideas for products

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

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

⁵ See section 29(c) of the Act.

⁶ See section 29(c) of the Act.

⁷ See section 29(c)(ix) of the Act.

and draw those products in 3D on a computer. Then he would make detailed drawings of the parts needed to make the products.

[23] The Claimant's work duties changed on March 3, 2022. A technician quit. The employer said that the Claimant and another employee would have to share the technician's duties until they could hire a new technician. The technician's duties were not highly skilled. The Claimant had to print standard drawings of products, make notes on the printed drawings, and put them into a folder.

[24] The Claimant kept doing his design engineer job as well, but he did less of it because he had to do the technician's duties too. His pay stayed the same. He had to return to work in-person for about 12 hours a week.

[25] The Claimant says his employer told him if he did not do the new work duties he would be fired or would have to quit. He started doing the new work duties on or about March 14, 2022.

[26] The Claimant did the technician's work and his design engineer job for about eight weeks. He decided he could not keep doing it. It was not part of his job to print drawings and make notes. It was tedious and below his skill level.

[27] He had to work in-person 12 hours a week. His spouse works too. They had two young children at home in virtual school. It was hard to manage his family demands.

[28] The Claimant complained to the employer by e mail on May 18, 2022. This was the first time the Claimant complained. The Claimant said the new work duties were too low level for him. He told his employer he wanted to go back to doing his design engineer job all of the time. Doing the new work duties affected his self-esteem.

[29] The employer e mailed him back on May 19, 2022. The employer said they were trying to hire a technician. They were interviewing people. They were optimistic. But they were a small company. If someone leaves, everyone has to share their duties.

[30] On May 27, 2022, the Claimant asked about the interviews. On May 30, 2022, the employer told the Claimant they did not hire anyone. The employer said they were

looking for more applicants. Because of the labour shortage, the Claimant thought they might not be able to hire someone for a long time, maybe never.

[31] On June 1, 2022, the Claimant e mailed the employer and said he had to quit. He said that his role had been downgraded and he did not agree to do the new work duties.

[32] The Claimant talked to a lawyer. The lawyer told him if he kept working he would be agreeing to the new work duties. And that he had to quit to bring a claim for constructive dismissal.

[33] The circumstances that existed when the Claimant quit were:

- The employer added technician's work to his work duties. The technician's work was below his skill level. This affected his self-esteem and well-being.
- The employer was trying to hire a new technician. There was a labour shortage. It was taking longer than the Claimant liked.
- It was stressful for the Claimant and his family for him to do in-person work 12 hours per week.
- His lawyer told him if he kept working for too long, he would be seen to have accepted the new work duties.

The Claimant had reasonable alternatives

[34] I must now look at whether the Claimant had no reasonable alternative to leaving his job when he did.

[35] The Claimant says that he had no reasonable alternative because:

- It was humiliating for him to do the new work duties.
- He thought he might have to do them for a very long time.
- His lawyer said he could not bring a constructive dismissal claim unless he quit.

- Going back to work in-person for 12 hours a week was hard on his family.

[36] The Commission says that the assignment of new work duties in these circumstances was reasonable. It says that the Claimant could have kept working until he found a new job. The Commission also says the Claimant could have got a doctor's note and told his employer that his mental health was suffering. He could have taken a leave of absence.

[37] The Claimant did not talk to anyone from management before he quit. He says his manager was very firm at the meeting on March 3, 2022, when they told him he would have to do the technician's work. And so, he did not think the employer would take away the new work duties.

[38] The Claimant says the employer would not have allowed him to take a leave of absence. I agree with him that his employer would not have let him take a leave. They needed a technician. They were having trouble hiring one. They needed the Claimant to do some of the technician's work. They would not want him to take a leave.

[39] But there were other things the Claimant could have done instead of quitting his job when he did. The Claimant could have done the following things:

- He could have asked his employer if he could keep working and do less of the technician's work.
- He could have rejected his lawyer's advice that he should quit so he could claim constructive dismissal.
- He could have kept doing the new work duties until the employer hired a new technician.
- He could have asked his employer for a leave and got a doctor's report saying his mental health was affected by doing the technician's work.
- He and his spouse could have arranged for caregivers for the times when one of them was not able to supervise their children in virtual school.

- He could have looked for another job.

[40] Considering the circumstances that existed when the Claimant quit, the Claimant had reasonable alternatives to leaving when he did, for the reasons set out above.

[41] This means the Claimant did not have just cause for leaving his job.

Conclusion

[42] I find that the Claimant is disqualified from receiving benefits.

[43] This means that the appeal is dismissed.

Paula Turtle
Member, General Division – Employment Insurance Section