



Citation: *DC v Canada Employment Insurance Commission*, 2023 SST 1781

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: D. C.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (575596) dated March 23, 2023 (issued by Service Canada)

Tribunal member: Kristen Thompson

Type of hearing: Teleconference

Hearing date: September 14, 2023

Hearing participant: Appellant

Decision date: September 15, 2023

File number: GE-23-1174

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 her job when she did. The Appellant didn't have just cause because she had reasonable alternatives to leaving. This means she is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant left her job on November 18, 2022, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

[4] I have to decide whether the Appellant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says that, instead of leaving when she did, the Appellant could have looked for a new job before quitting, looked for temporary housing, or tried commuting.

[6] The Appellant disagrees and says that she had no reasonable alternative to leaving her job. She says that she stayed with family who lived close to her job. When this arrangement was no longer available, she couldn't find other suitable housing. She says that she couldn't commute. She says that she knew it wouldn't be difficult for her to find a new job.

Issue

[7] Is the Appellant disqualified from receiving benefits because she voluntarily left her 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

The parties agree that the Appellant voluntarily left

[9] I accept that the Appellant voluntarily left her job. The Appellant agrees that she quit on November 18, 2022. I see no evidence to contradict this.

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

[10] The parties don't agree that the Appellant had just cause for voluntarily leaving her job when she did.

[11] 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.

[12] 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

[13] It is up to the Appellant to prove that she had just cause. She has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that her only reasonable option was to quit.³

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 4.

[14] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit. The law sets out some of the circumstances I have to look at.⁴

[15] After I decide which circumstances apply to the Appellant, she then has to show that she had no reasonable alternative to leaving at that time.⁵

The circumstances that existed when the Appellant quit

[16] The Appellant says that the circumstances that existed when she quit were that: she no longer had a place to stay, close to her job, and she didn't think she would have difficulty finding a new job, close to her home.

[17] The Appellant says that she quit her job because she no longer had a place to stay, close to her job. She says that she was living with her sister, during the workweek. She says that her sister's house was put up for sale in September 2022. She says that the house sold in October 2022, with a closing date of November 30, 2022. She says that she was asked to leave her sister's house a couple weeks before the closing date.

[18] The Appellant says that she owns a house in another area. She says that she didn't think that she would have any difficulty finding a job close to her house.

[19] The Appellant started working at a grocery store on December 5, 2022. It is located close to her house. She says that she knew the store was hiring, as early as September 2022. She says that she didn't apply for a job at the store before quitting. She says that she had an interview at the store a day or two before her first day and was hired on the spot.

[20] The circumstances that existed when the Appellant quit were that she no longer had a place to stay, close to her job, and she didn't think she would have difficulty finding a new job, close to her home. I rely on the Appellant's testimony, as it is credible and consistent with the appeal file.

⁴ See section 29(c) of the Act.

⁵ See section 29(c) of the Act.

[21] I don't find that the Appellant had reasonable assurance of another employer in the immediate future,⁶ before quitting. Although she said that she wouldn't have difficulty finding a new job close to her home, and she did find a new job quickly, she didn't have reasonable assurance of the job. For example, she hadn't applied for the job, interviewed for the job, or received a job offer, before quitting.

The Appellant had reasonable alternatives

[22] I must now look at whether the Appellant had no reasonable alternative to leaving her job when she did.

[23] The Appellant says that she had no reasonable alternative because she couldn't find suitable housing, close to her job. She says that she couldn't commute, due to her age, the length of the commute, and the driving conditions. She says that she knew it wouldn't be difficult for her to find a new job, close to her home.

[24] The Commission disagrees and says that the Appellant could have looked for a new job before quitting, whether or not that would require a leave of absence from her employer. It says that she could have looked for temporary housing, until she found affordable and permanent housing closer to her job or a new job closer to her home. It says that she could have tried commuting to her job, if only until she found a new job.

[25] The Appellant says that she tried to find suitable housing close to her job. She says that she discussed renting out a room with three different friends and co-workers, but it didn't work out. She says that she didn't have any intention to rent a room from someone she doesn't know.

[26] The Appellant says that she looked to rent an apartment close to her job and the surrounding area. She says that the rent prices were too expensive. She says that she couldn't afford to rent an apartment with her salary.

[27] The Appellant says that she couldn't commute to work from her home, due to her age, the length of the commute, and the driving conditions. She says she is 65 years

⁶ As per section 29(c)(vi) of the Act.

old. She says that it would take her between 1 hour 30 minutes to 1 hour 45 minutes to commute one-way to work. She says that, between her 10-hour workday and the commute, it would be too much for her and her car. She says that the winter driving conditions, between her job and her home, aren't good.

[28] The Appellant says that taking a leave of absence to find a new job or housing wasn't an option, as she wouldn't be able to pay her bills.

[29] The Appellant says that she didn't look for a new job between September to November 2022. She says that it didn't occur to her to look for a job before quitting.

[30] The Appellant says that she knew it wouldn't be difficult for her to find a new job, close to her home. She says that she approached possible employers about job opportunities, close to her home, around May or June 2022, when her sister first tried to sell her house.

[31] The Court said that it is the responsibility of insured persons, in exchange for their participation in the scheme, to not provoke the risk of unemployment or transform what was only a risk of unemployment into a certainty.⁷

[32] I find that the Appellant had a reasonable alternative to leaving her job when she did – she could have looked for a new job before quitting. The Appellant was given notice that her sister's house was up for sale in September 2022. She testified that she knew that the grocery store was hiring, as early as September 2022. She said that she didn't think she would have difficulty finding a job close to her home and, in fact, started a new job at the grocery store within a few weeks of quitting. I think that, had she started looking for a job at an earlier date, she may not have provoked the risk of unemployment.

⁷ See *Canada (Attorney General) v Langlois*, 2008 FCA 18 and *Unemployment Insurance Commission v Tanguay*, A-1458-84.

[33] Considering the circumstances that existed when the Appellant quit, the Appellant had a reasonable alternative to leaving when she did, for the reasons set out above.

[34] This means the Appellant didn't have just cause for leaving her job.

Conclusion

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

[36] This means that the appeal is dismissed.

Kristen Thompson
Member, General Division – Employment Insurance Section