



Citation: *KS v Canada Employment Insurance Commission*, 2023 SST 1743

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

Decision

Appellant: K. S.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (592938) dated June 8, 2023 (issued by Service Canada)

Tribunal member: Susan Stapleton
Type of hearing: In person
Hearing date: September 5, 2023
Hearing participant: Appellant
Decision date: September 13, 2023
File number: GE-23-1942

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 a reasonable alternative to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant left his job 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 have to decide whether the Appellant has proven that he had no reasonable alternative to leaving his job.

[5] The Commission says that when the Appellant learned he had been bumped from taking a French course in person to taking it online, he could have talked to his employer about withdrawing his resignation. It says he could have continued living in his family home and working, and done his French course online, until he secured new employment in Halifax.¹

[6] The Appellant disagrees and says that his French course was switched from being in person to online after he moved. His father was moving to Halifax and his mother was getting the family home ready to rent. He wouldn't have a place to live once the house was rented. He had a part time job lined up for while he took the French course. He needed to be bilingual to pursue a career with the federal government.² So, he moved to Halifax on April 1, 2023.

¹ See GD4-4.

² See GD2-5.

Issue

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

[8] To answer this, I first have to 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 his job. I asked him at the hearing why the Record of Employment (ROE) says it was issued due to shortage of work or end of contract or season. He replied that he wasn't sure. He said that one of the owners of the company told him the ROE would say that he had quit to move, but then the other owner indicated that there was a shortage of work. He confirmed that his employment ended because he quit his job on March 30, 2023.

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 his job when he 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.³ 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.⁴

³ Section 30 of the *Employment Insurance Act* (Act) sets out this rule.

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

[13] It is up to the Appellant to prove that he had just cause.⁵ 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.

The circumstances that existed when the Appellant quit

[14] The Appellant testified that he left his job to move to Halifax.

[15] He said he was living with his parents in Port Albert and working. He had graduated from university, but he couldn't live independently on the wages he was being paid by the employer. He had been getting slightly less hours at work during the few months before he quit, and there was no opportunity in his job to move up. He thought he should get out of there, or he'd be stuck there.

[16] He decided to take a French course to improve his chances of finding a job in the government, and to move to Halifax for new opportunities.

[17] He testified that his father got a job promotion in early 2023, and moved from Port Albert to Halifax. His mother was preparing the family home to rent in the fall, when she planned to move to Halifax to stay with his father. So, he believed he wouldn't be able to continue living in the house after the summer.

[18] He testified that he applied in March 2023 to take a French course in person in Halifax beginning on April 1st. He decided that he would move to Halifax, live with his father and take his course. He had the choice to apply to take the course online, but he felt that he would learn better in person.

[19] In early March 2023, he gave the employer notice that he would be leaving his job at the end of the month to move to Halifax.

⁵ See *Canada (Attorney General) v White*, 2011 FCA 190.

[20] He lined up a job interview at a bar in Halifax, for after he moved. He wanted to work part time at the bar, and also find a full time job with the government.

[21] The Appellant testified that he received his acceptance letter for the French course around the third week of March, and it said that he would be taking the course online, not in person. He was still working for the employer when he received the letter.

[22] He said he decided to move to Halifax anyway, even though his course would be online, because his father had signed a lease for a two-bedroom apartment, and he had a job interview lined up. He wanted to get some work experience, and apply in person for jobs in Halifax. He decided to go and see what happened.

[23] He moved to Halifax on April 1, 2023, and started his course. The course took place online, for ten weeks, once a week, for three hours. He took the next level of the course online as well, beginning in June. It was also ten weeks long. He has at least two more levels of the course to do.

[24] He got a part time job in Halifax on April 6, 2023, and he continues to work in that position. He hasn't been able to find any other work.

[25] He testified that due to an illness in the family, his mother had to stay in Port Albert, so his parents didn't end up renting out the house.

[26] The Appellant's father provided submissions on the Appellant's behalf. He said the Appellant is a hard worker, and is trying to find full time work using his degree. He is only looking for partial benefits, because he is working part time.

[27] It is clear that when the Appellant made the decision to quit his job and move to Halifax, it was to take a French course there in person. But that wasn't why he actually quit on March 30, 2023, because his course was changed before then, to being held online. The Appellant made the personal decision to stick with his plan to leave his job and move to Halifax, even though he wouldn't be taking his French course in person.

[28] So, when the Appellant quit his job on March 30 2023, he was going to be starting a French course on April 1, 2023, that was being held online. He was getting

less hours at work, and he was moving to Halifax to live with his father and pursue new opportunities. He had a job interview lined up. He thought the family home would be rented out in the fall, and he wouldn't be able to continue living there.

The Appellant had a reasonable alternative

[29] The Commission says that the Appellant didn't have just cause to leave his job because he had a reasonable alternative to leaving when he did. It says that when he learned his course would be held online, he could have spoken to the employer and withdrawn his resignation. It says he could have continued living in the family home and working, and taken his course online, until he found work in Halifax.

[30] The Appellant says that when he found out his course would be online, his father had already committed to the apartment, he had a lead on a job in Halifax, and he believed that he would no longer be able to live in the family home as of the fall. He wanted to apply for jobs in person in Halifax, and gain some work experiences there. So he decided to stick with his plan to quit his job and move to Halifax.

[31] I understand that the Appellant wanted to move to Halifax and live with his father while he took his course online. He testified that he had been getting slightly less than full time hours in his job with the employer and he wanted to be working full time. He had graduated from university, and he wanted to find a job in the government, that was more in line with his level of education. He wanted to apply for work in person in Halifax.

[32] While this decision may have been a reasonable one on the Appellant's part, the question is not whether his actions were reasonable, but whether they were his only reasonable alternative in the circumstances.

[33] I find that the Appellant had a reasonable alternative to leaving his job when he did. He could have stayed in Port Albert and done his course online, and continued working in his job. He could have continued to look for work that was more to his liking while doing so.

[34] Considering together all of the circumstances that existed when the Appellant quit his job, I find that he had a reasonable alternative to quitting when he did.

[35] The Appellant did not have just cause to leave his employment. This means he is disqualified from receiving EI benefits.

Conclusion

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

[37] This means the appeal is dismissed.

Susan Stapleton

Member, General Division – Employment Insurance Section