



Citation: *TB v Canada Employment Insurance Commission*, 2024 SST 156

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

## Decision

**Appellant:** T. B.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (555959) dated December 20, 2023 (issued by Service Canada)

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**Tribunal member:** Angela Ryan Bourgeois

**Type of hearing:** Teleconference

**Hearing date:** January 29, 2024

**Hearing participant:** Appellant

**Decision date:** February 14, 2024

**File number:** GE-23-3591

## 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 was a continuing care assistant (CCA). In September 2021, she started a two-year program to become a licenced practical nurse. During the first year of her studies, she continued to work as a CCA.

[4] However, the second year of her course, which started in September 2022, was more demanding.

[5] So, she talked to her employer about her position. They decided that the Appellant would leave her position as a Care Team Assistant, which was an indeterminate, part-time (.8) position, and accept a casual position.<sup>1</sup>

[6] The change allowed the Appellant to work fewer hours to accommodate the increased demands of her course. It also gave the employer more flexibility to schedule the Appellant's shifts around her course.

[7] The Appellant applied for EI benefits on September 17, 2022.

[8] The Canada Employment Insurance Commission (Commission) decided that the Appellant voluntarily left (or chose to quit) her job without just cause, so it couldn't pay her benefits.

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<sup>1</sup> All CCA positions with the employer are at .8 or lower.

[9] I must decide whether the Appellant voluntarily left her job, and if so, whether she has proven that she had no reasonable alternative to leaving her job.

[10] The Commission says that the Appellant made a personal decision to leave her full-time employment to return to school, as she wanted a new career. It says that going from a full-time position to a casual position was a personal decision that does not amount to just cause.<sup>2</sup>

[11] The Appellant disagrees. She says she wasn't unemployed. She dropped from a .8 to a casual position. She didn't have to reapply.<sup>3</sup>

## **Preliminary Matters**

### **The issue in this appeal**

[12] The Appellant appealed two of the Commission's decisions to the Tribunal, availability and voluntarily leaving.

[13] Another member of the General Division decided both issues. The Commission appealed that member's decision about the voluntarily leaving issue to the Appeal Division. The Appeal Division set aside the General Division's decision about the voluntarily leaving issue and referred the matter back to the General Division for reconsideration. So, the only issue before me is whether the Appellant voluntarily left her job, and if so, whether she had just cause to do so.

## **Issue**

[14] I must decide:

- Did the Appellant voluntarily leave her job?
- If so, did she have just cause for leaving?

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<sup>2</sup> See page GD4B-3 and GD4B-4. The Commission refers to the Appellant's .8 CCA position as a full-time position.

<sup>3</sup> For example, see page GD2-5.

## Analysis

### The Appellant voluntarily left her job

[15] I find that the Appellant voluntarily left her job.

[16] The Appellant says that she didn't quit her job. She and her employer had a conversation about her employment and her course. They knew that she wouldn't be allowed to continue to work at the same location after she graduated.<sup>4</sup> They decided that the best way to accommodate her course was for her to switch her part-time position to a casual position.<sup>5</sup> Before the employer agreed to the switch, the Appellant had to agree to scheduled work over the Christmas holidays.

[17] So, the Appellant's position was changed from a part-time position to a casual position. The employer sent the Appellant a letter confirming that her part-time position ended effective September 24, 2022, along with her medical, dental and other benefits. The letter confirmed that the Appellant would remain as a casual Care Team Assistant at the same location.<sup>6</sup>

[18] The employer told the Commission that the Appellant quit one position and started a new position. It wasn't just the hours that changed.<sup>7</sup> The Commission says that this is voluntarily leaving a job.

[19] I agree with the Commission that the Appellant voluntarily left her job. My reasons follow.

[20] First, I find that the Appellant's move from a part-time position to a casual position was a change in jobs, not just hours. The Appellant moved from a position with guaranteed hours and benefits to a position where she wasn't assured of any hours and

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<sup>4</sup> As a matter of policy, new licenced practical nurses do not work where they previously held a continuing care attendant position.

<sup>5</sup> As mentioned above, the Appellant's position was a .8 position.

<sup>6</sup> The letter is on page GD2-9.

<sup>7</sup> See page GD3B-28.

had no benefits. The employer's letter makes it clear that the employer considered that she had terminated her part-time position.

[21] The Appellant says that she was never unemployed. She immediately moved from the part-time position to the casual position. There is no dispute that she remained employed with the employer. But there was still a separation of employment, however brief, when she moved from one position to another, with new terms of employment.

[22] Secondly, it was the Appellant's choice to leave the part-time position for the casual position.

[23] According to the Federal Court of Appeal, "the determination of whether an employee has voluntarily left his employment is a simple one. The question to be asked is as follows: did the employee have a choice to stay or to leave?"<sup>8</sup>

[24] Although the Appellant and her employer came up with the solution together, the Appellant confirmed that it was her decision alone to leave the part-time position and move to the casual position.

[25] Since the Appellant could have stayed in the part-time position but chose to leave for the casual position, I find that she voluntarily left the part-time position. She voluntarily left her employment.

### **What it means to have just cause**

[26] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>9</sup> Having a good reason for leaving a job isn't enough to prove just cause.

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<sup>8</sup> See *Canada (Attorney General) v Peace*, 2004 FCA 56.

<sup>9</sup> Section 30 of the *Employment Insurance Act* (Act) sets out this rule.

[27] 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.<sup>10</sup>

[28] It is up to the Appellant to prove that she had just cause.<sup>11</sup> 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. When I decide whether the Appellant had just cause, I have to look at all the circumstances that existed when the Appellant quit.

### **Why the Appellant left her job**

[29] The Appellant told me that she left the part-time job for the casual position because of her course. Also, she felt she had an obligation to her employer – she couldn't call in sick to take her course.

[30] I accept that this is why she left her job. There is no evidence to make me question what she told me.

### **The Appellant didn't have a referral to take the course**

[31] Sometimes, the Commission (or a program the Commission authorizes) refers people to take training, a program, or a course. One of the circumstances I must consider is whether the Commission referred the Appellant to take her course.

[32] The Appellant didn't have a referral. She reported on her application form that she tried to get a referral but wasn't approved.<sup>12</sup>

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<sup>10</sup> See *Canada (Attorney General) v White*, 2011 FCA 190; and section 29(c) of the Act.

<sup>11</sup> See *Canada (Attorney General) v White*, 2011 FCA 190.

<sup>12</sup> See page GD3B-8.

## **Reasonable assurance of another employment in the immediate future**

[33] Another circumstance I must consider is whether the Appellant had a reasonable assurance of another job in the immediate future.<sup>13</sup>

[34] I find that she did. She knew before leaving her part-time job that she would be working in the casual position, and that she would have full-time hours over the Christmas holidays.

## **The Appellant had a reasonable alternative to leaving**

[35] A reasonable alternative to leaving her part-time job was to stay employed.

[36] Case law says:

- If you quit your job to take a course without a referral, you don't have just cause for leaving your job.<sup>14</sup>
- It is legitimate for someone to want to improve their life by changing the nature of their work, and return to school, but they cannot expect the employment insurance fund to bear the cost of that legitimate desire.<sup>15</sup>
- The assurance of an employment that doesn't pay enough and requires reliance on employment insurance benefits doesn't provide a claimant with a basis for leaving a job to return to school and make the employment insurance system bear the cost.<sup>16</sup>

[37] This case law applies to the Appellant's situation and doesn't allow me to find that she had just cause for leaving her job.

[38] Considering all the circumstances, the Appellant hasn't proven that she had just cause to leave her job. She left her job because she wanted to complete her training,

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<sup>13</sup> See section 29(c)(vi) of the EI Act.

<sup>14</sup> See *Canada (Attorney General) v Caron*, 2007 FCA 204.

<sup>15</sup> See *Canada (Attorney General) v Langlois*, 2008 FCA 18.

<sup>16</sup> See *Canada (Attorney General) v Lamonde*, 2006 FCA 44.

but she didn't have a referral for the course. And although she had a reasonable assurance of another job, that other job was a casual position that, from the start, required reliance on EI benefits.

[39] I understand that the Appellant had good reasons for leaving her job to take a course. But this was a personal choice, and it goes against the idea behind the EI plan.<sup>17</sup>

[40] Since the Appellant had a reasonable alternative to leaving (to continue to work), she didn't have just cause to leave her job.

## **Conclusion**

[41] I find that the Appellant voluntarily left her employment without just cause. This means that she is disqualified from receiving EI benefits.

[42] The appeal is dismissed.

Angela Ryan Bourgeois  
Member, General Division – Employment Insurance Section

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<sup>17</sup> See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.