



Citation: *X v Canada Employment Insurance Commission and PD*, 2023 SST 982

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: X

Respondent: Canada Employment Insurance Commission

Added Party: Claimant (P. D.)

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (563768) dated February 24, 2023
(issued by Service Canada)

Tribunal member: Katherine Parker

Type of hearing: In person

Hearing date: June 14, 2023

Hearing participant: The Appellant

Decision date: June 26, 2023

File number: GE-23-709

Decision

[1] The appeal is dismissed. I agree with the Claimant.

[2] The Claimant has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Claimant had just cause because she had no reasonable alternative to leaving. This means she isn't disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left her job on October 11, 2022, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job with just cause, so it paid her benefits.

[4] The Employer made a request for reconsideration of the decision, and it was upheld by the Commission. So the Employer appealed this decision to the Social Security Tribunal (SST).

[5] I must decide whether the Claimant had reasonable alternatives to leaving her job.

[6] The Commission agreed with the Claimant, she didn't have any other alternative but to voluntarily leave. It said the Employer made the workplace so difficult that she couldn't work there any longer.

[7] The Appellant said in his appeal that the Claimant demonstrated poor conduct, not him. He said he was a good manager.

[8] The Appellant said the Commission didn't consider the manner in which the Claimant resigned. He said she showed a pattern of negative behaviour in her employment and with her previous employer. He said that her witness shouldn't be believed because she is a friend of the Claimant. He said that the Claimant should be denied benefits because otherwise the Commission was rewarding this kind of behaviour.¹

[9] The Claimant disagrees and states that she had been regularly bullied and harassed by the employer. She said,

¹ See GD2-6.

- The Appellant and her other manager, N., swore and yelled at her over an extended period of time
- That N. breached her confidentiality and she felt undermined. She said he told a co-worker something personal that made her look bad and humiliated her.
- The Appellant belittled her in front of co-workers when she reacted because she couldn't find her keys. She said he exploded, and made numerous disparaging remarks that humiliated her. She walked out and quit that morning before her shift started.
- Her witness provided a testimony to the Commission and confirmed what happened.

Matter I have to consider first

The Claimant wasn't at the hearing

[10] The Claimant was added as a party to the appeal in accordance with s. 33(1)(b) of the Social Security Rules of Procedure and made submissions before the hearing.² But she wasn't at the hearing. A hearing can go ahead without one of the parties if that party got the notice of hearing.³ The Claimant got the notice of the hearing because she made submissions.

[11] I sent the Claimant a letter after the hearing giving her the option to provide additional submissions, but she decided that she didn't want to participate further.⁴

[12] The hearing took place when it was scheduled. The decision proceeded without further submissions from the Claimant.

² See GD6.

³ Section 58 of the *Social Security Tribunal Rules of Procedure* sets out this rule.

⁴ See GD-10.

Issue

[13] Is the Claimant disqualified from receiving benefits because she voluntarily left her job without just cause?

[14] 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 parties agree that the Claimant voluntarily left

[15] I accept that the Claimant voluntarily left her job. The Claimant agrees that she quit on October 11, 2022. I see no evidence to contradict this.

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

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

[17] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.⁵ Having a good reason for leaving a job isn't enough to prove just cause.

[18] 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.⁶

[19] It is up to the Claimant 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 his only reasonable option was to quit. When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit.

⁵ Section 30 of the *Employment Insurance Act* (Act) explains this.

⁶ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

[20] The Claimant says that she left her job because the Appellant who was her manager, and N., regularly bullied and harassed her. The Claimant says that she had no reasonable alternative to leaving at that time because the day she quit was another day that she was humiliated by the Appellant. She couldn't go back given how hostile her managers were towards her.

[21] The Commission says that the Claimant had just cause, because she didn't have reasonable alternatives to leaving when she did. The Commission talked to the Claimant's former co-worker who confirmed that the workplace was toxic.

[22] The Commission said that the Claimant should not be expected to stay employed in a situation where an ongoing conflict exists between herself and her supervisors.⁷

[23] At the hearing, the Appellant said that the Claimant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, he said that the Claimant could have stayed and worked things out, and continued in her job. He said this even though he told the Commission that the Claimant had a long history of poor behaviour.

[24] The Appellant told the Commission that the Claimant had been reprimanded for her attitude and was issued written warnings and a two-day suspension due to misconduct.⁸ He said that the Claimant should be denied benefits so that her negative pattern of behaviour would only be reinforced.

Credibility of the testimony

[25] I find that the Claimant left because the Appellant verbally abused her on October 11, 2022, as she claims, and he was antagonistic towards her. I believe her testimony and give it more weight than the Appellant's testimony.

⁷ See GD4-5.

⁸ See GD2-11 to GD2-12.

[26] The Appellant failed to provide evidence there was no harassment in the workplace. He focused on why he was a good manager and he denied saying things to her that caused her to quit.

[27] The Appellant was inconsistent with his testimony. He expressed concerns about the Claimant's conduct to the Commission, but at the hearing he said things were okay and there was no animosity between him and the Claimant.

[28] I believe the Claimant's witness who confirmed that the Appellant verbally abused the Claimant the day she quit. I found her evidence to be credible because of the wording in her testimony that describes her own discomfort, and she spoke directly to the Commission. I see no reason for her to make up her story about what happened, and it's consistent with what the Claimant said happened.⁹

[29] At the hearing, the Appellant said N. didn't harass the Claimant except to reprimand her when she used vulgar language as he did to everyone when they swore. He said that wasn't harassment.

[30] He said that N. did breach personal information about the Claimant to another co-worker. The Appellant said he addressed this with N. and gave the Claimant an opportunity to make a complaint, but she didn't. This contradicts the testimony he gave to the Commission when he told them he knew nothing about the breach of personal information.¹⁰

[31] At the hearing, the Appellant said he was never contacted to provide information in the case. He said he had never heard of H. K. who is the name on the Record of Employment (ROE) and contact number for the Commission.¹¹ He said no one at the company knew of an employee by that name and it was a small company, so he knew everyone. But on November 18, 2022, the Appellant met with the Commission by phone with H. K.

⁹ See GD7-2.

¹⁰ See GD3-32.

¹¹ See GD3-26.

[32] At the hearing, the Appellant said he would have taken the Claimant back even though she said some very negative and derogatory comments to him when she left. He said this was a reasonable alternative for the Claimant.

[33] However, I find it unlikely that the Claimant could have continued working there because of the animosity towards as was evidenced by the Appellant's behaviour the day she quit.

[34] The Appellant asked for an in-person hearing. He said he didn't expect there would be any conflict or discomfort with them being in the same room for the in-person hearing. He said they were on speaking terms since she left and had been in touch a few times. However, the Claimant sent an email post hearing saying she didn't know that the Appellant would be in the same room with her, and that caused her some stress and anxiety.¹² This demonstrated to me that there continues to be animosity between her and the Appellant.

[35] The Appellant didn't provide a direct response to the oath. He qualified his response by saying as far as he could remember.

[36] For the reasons explained above, I put more weight on the Claimant's testimony.

[37] I agree with the Commission that the Claimant has proven just cause for leaving with no reasonable alternative.¹³

Conclusion

[38] I find that the Claimant isn't disqualified from receiving benefits.

[39] This means that the appeal is dismissed.

Katherine Parker
Member, General Division—Employment Insurance Section

¹² See GD10-1.

¹³ Specifically, the Claimant has just cause under Section 29(c)(i)(x) of the *Employment Insurance Act*.