



Citation: *LG v Canada Employment Insurance Commission*, 2024 SST 370

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: L. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (648507) dated February 21, 2024
(issued by Service Canada)

Tribunal member: Katherine Parker

Type of hearing: Videoconference

Hearing date: March 18, 2024

Hearing participant: Appellant

Decision date: March 19, 2024

File number: GE-24-786

Decision

[1] The appeal 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. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant left his job to attend college full-time and applied for EI benefits. The Canada Employment Insurance Commission (Commission) 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 Appellant is also appealing a disentitlement to EI benefits for failing to prove his availability for work while attending a course of instruction. To receive benefits you must qualify.

[6] The Commission says that the Appellant could have applied to colleges nearby, or waited until he found a job in the new location.

[7] The Appellant disagrees and states that he did apply to local colleges, but he was denied. He said he asked for a leave of absence, but his employer denied his request. He said he moved and that was another reason for leaving his job.

Issue #1

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

[9] 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

[10] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on December 22, 2023, to attend college full-time. The college was 235 kilometres (km) from his home and his family. I see no evidence to contradict this.

What it means to have just cause

[11] The parties don't agree that the Appellant had just cause for voluntarily leaving his job when he did.

[12] 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.

[13] 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

[14] It is up to the Appellant to prove that he had just cause.³ 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.

¹ Section 30 of the *Employment Insurance Act* (Act) sets out this rule.

² See *Canada (Attorney General) v White*, 2011 FCA 190; and section 29(c) of the Act.

³ See *Canada (Attorney General) v White*, 2011 FCA 190.

Referral to take a program

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

– The parties agree that there was no referral

[16] Case law clearly says that, if you quit your job just to go to school without a referral, you don't have just cause for leaving your job.⁴

[17] The parties agree that the Appellant didn't get a referral to go to school. School was the only circumstance relating to the Appellant's decision to quit because it was located 235 km away from his home. So, the case law applies to the Appellant. This means that the Appellant doesn't have just cause.

[18] I understand that the Appellant may have good reasons for choosing to leave his job to go to school. But this is a personal choice, and it goes against the idea behind the EI plan.⁵

[19] The Appellant says that he had no reasonable alternative to moving at that time because he wasn't accepted to his local college. He applied to a local college where he had been attending for several years off and on. It denied his application and he appealed. He also wrote his Member of Provincial Parliament (MPP). He wasn't successful and by the time his appeal was decided, the deadline for other local colleges had passed.

⁴ See *Canada (Attorney General) v Caron*, 2007 FCA 204.

⁵ See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.

[20] I find that the Appellant moved to go to school. This was the primary reason for his move and the reason why he quit his job. He quit his job for the sole purpose of attending school.

- Moving to attend school isn't just cause for quitting a job.
- The Appellant could have chosen another program of study, waited another semester to be accepted to a local college, or postponed his studies.
- The Appellant could have secured employment before moving to avoid unemployment.

Issue #2

[1] Is the Appellant available for work while in school?

Analysis

[2] Two different sections of the law require claimants to show that they are available for work. The Commission decided that the Appellant was disentitled under both of these sections. So, a claimant has to meet the criteria of both sections to get benefits.

[3] First, the *Employment Insurance Act* (Act) says that a claimant has to prove that they are making "reasonable and customary efforts" to find a suitable job.⁶ The *Employment Insurance Regulations* (Regulations) give criteria that help explain what "reasonable and customary efforts" mean.⁷

[4] Second, the Act says that a claimant has to prove that they are "capable of and available for work" but aren't able to find a suitable job.⁸ Case law gives three things a claimant has to prove to show that they are "available" in this sense.⁹

⁶ See section 50(8) of the *Employment Insurance Act* (Act).

⁷ See section 9.001 of the *Employment Insurance Regulations* (Regulations).

⁸ See section 18(1)(a) of the Act.

⁹ See *Faucher v Canada Employment and Immigration Commission*, A-56-96 and A-57-96.

[5] The Commission decided that the Appellant was disentitled from receiving benefits because he isn't available for work based on these two sections of the law.

[6] In addition, the Federal Court of Appeal has said that claimants who are in school full-time are presumed to be unavailable for work.¹⁰ This is called "presumption of non-availability." It means we can suppose that students aren't available for work when the evidence shows that they are in school full-time.

[7] In Issue #1, I agreed with the Commission that the Appellant is disqualified from receiving EI benefits because he left his job voluntarily without cause. So I don't have to decide on his availability.

[21] I truly sympathize with this Appellant, and I have compassion for his situation, but I have to follow the law.

Conclusion

[22] I find that the Appellant is disqualified from receiving EI benefits because he voluntarily left his job without cause.

[23] This means the appeal is dismissed.

Katherine Parker
Member, General Division—Employment Insurance Section

¹⁰ See *Canada (Attorney General) v Cyrenne*, 2010 FCA 349.