



Citation: *GH v Canada Employment Insurance Commission*, 2023 SST 1992

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: G. H.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (582214) dated May 5, 2023 (issued by Service Canada)

Tribunal member: Elyse Rosen

Type of hearing: Teleconference

Hearing date: July 25, 2023

Hearing participant: Appellant

Decision date: July 26, 2023

File number: GE-23-1615

Decision

[1] The appeal is dismissed.

[2] I find that the Appellant voluntarily left his job without just cause. This means that the Appellant is disqualified from receiving Employment Insurance (EI) benefits.¹

Overview

[3] The Appellant was working in a metal supply company. He felt his supervisor was aggressive and rude. He also had concerns about workplace safety. So, he quit his job and applied for EI benefits.

[4] The Canada Employment Insurance Commission (Commission) decided it couldn't pay him benefits because he left his job voluntarily without just cause.

[5] The Appellant says he had just cause to leave his job. He argues that no one should be treated the way he was treated by his supervisor. And he felt the workplace was unsafe. He believes he is entitled to benefits in the circumstances.

[6] I must determine if the Appellant had just cause to leave his job when he did.

Issue

[7] Does the Appellant have just cause for leaving his job?

Analysis

[8] To decide this appeal, I must first determine whether the Appellant voluntarily left his job. If he did, I must determine whether he had just cause to leave his job when he did.

¹ Section 30 of the *Employment Insurance Act* (Act) says that claimants who voluntarily leave their job without just cause are disqualified from receiving benefits.

Did the Appellant voluntarily leave his job?

[9] The Appellant says he quit his job. The Commission and his employer agree. And his Record of Employment confirms this.² So, I find he voluntarily left his job.

[10] Because I have decided the Appellant voluntarily left his job, I now have to decide if he had just cause for leaving.

Did the Appellant have just cause to leave his job?

[11] I find that the Appellant didn't have just cause to leave 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.³ Having a good reason for leaving a job isn't enough to prove just cause.

[13] The law says that you have just cause if you had no reasonable alternative to quitting your job when you did. I have to consider all the circumstances at the time the Appellant left his job when I decide if he had a reasonable alternative to leaving.⁴ The law sets out some of the circumstances I have to look at.⁵

[14] It's up to the Appellant to prove that he had just cause. He has to prove this on a balance of probabilities. This means that he has to show that it's more likely than not that his only reasonable option was to quit.⁶

[15] After I decide which circumstances apply in the Appellant's case, he then has to show that he had no reasonable alternative to leaving at that time.⁷

² See GD3-23.

³ See section 30 of the Act.

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

⁵ See section 29(c) of the Act.

⁶ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

⁷ See section 29(c) of the Act.

– **The circumstances the Appellant was in**

[16] The law provides a list of circumstances I should consider when I decide if a claimant has just cause to leave their job. They include:

- harassment⁸
- working conditions that constitute a danger to health or safety⁹

[17] I find that both of these circumstances existed in this case.

i. Harassment

[18] Harassment is generally defined as any improper behaviour by a person that is directed at and offensive (in other words, rude, insulting, or aggressive) to another person, and which the first person knew or should have known would be unwelcome. It can take many forms, including actions, conduct, comments, intimidation, and threats.

[19] The Appellant says his supervisor was rude, dismissive, and aggressive. He would refuse to answer the Appellant's job-related questions or reply with a flippant "whatever", would swear at the Appellant, would tease him, would yell, and would throw things on a regular basis. It goes without saying that his supervisor should have known that this behaviour would be unwelcome.

[20] The Appellant describes his supervisor as a very large man. Because he was so unpredictable and explosive, the Appellant, who says he is a much smaller man, was afraid of him.

[21] He claims he is someone who loves to work, but because of his supervisor's behaviour he began dreading going to work. He wasn't sleeping at night.

[22] He says no one should have to put up with that kind of treatment at work. I agree. I find that the Appellant was the victim of harassment.

⁸ See section 29(c)(i) of the Act.

⁹ See section 29(c)(iv) of the Act.

ii. Safety

[23] The Appellant worked in a metal supply company. The racks on which materials were kept should have been bolted to the floor and walls but weren't. He was concerned they would come down on him and that he would be killed.

[24] The Appellant was often left alone in the shop, where he had to transport large pieces of metal with a forklift. He says this isn't safe. If he were to have an accident there wouldn't be anyone around to call for help.

[25] Although I have no evidence of acceptable safety standards in the industry the Appellant was working in, I accept that racks with heavy material on them should be bolted down. I also accept that it's risky for someone operating heavy machinery to be working alone. The Commission doesn't appear to have investigated these claims.

[26] In the absence of any evidence to the contrary, I agree with the Appellant that his work environment wasn't safe.

Did the Appellant have reasonable alternatives to leaving his job?

[27] I find that the Appellant had reasonable alternatives to leaving his job.

[28] Although the circumstances the Appellant was in could give rise to just cause, he had the obligation to try to find a solution to the circumstances he was in before quitting.

[29] The Appellant never reported any of the issues he was facing to the owner of the company. He says if he had complained, he would have been fired. But, the Appellant quit. Had he tried to complain before quitting, it's possible that the owner would have addressed the problems.

[30] If the Appellant is correct that he would have been fired for complaining, he'd be no worse off than he was when he quit. And even if he had no faith that the owner would do anything about the problem, he should have tried. I find that reporting the issues he was facing to the owner was a reasonable alternative to quitting.

[31] The Appellant also could have reported his concerns to Alberta Occupational Health and Safety (AOHS). He says he did this, but only after leaving.

[32] I find that he should have reported the issues prior to leaving. Had he done so, AOHS may have directed his employer to correct the situation or advised him not to return to work until the situation was corrected. I find that speaking to AOHS was a reasonable alternative to quitting.

[33] The Appellant testified that he was afraid of his supervisor. Being afraid of someone at work could, in some instances, be a reason to leave immediately. But the Appellant says he became afraid of his supervisor weeks after starting his job. Yet, he remained in his job for about 15 months. So, I find that he wasn't so afraid of his supervisor that it could justify his leaving immediately.

[34] The Commission says the Appellant should have secured other work before quitting. However, the Appellant says he was diligently looking for work for about five months before he quit. He was looking for work as a forklift operator, a crane operator, and a deliveryman. He consulted help wanted ads, registered on Indeed and Kijiji jobs and posted his resumé, and let friends and acquaintances know he was looking for work. I find that he did his best to try to secure work prior to quitting.

[35] However, I find the Appellant didn't otherwise do enough before deciding to quit. Rather than take steps to try and change the circumstances he was in, he continued to put up with the situation until he got to the point that he couldn't take it anymore. In my view, this wasn't his only reasonable alternative.

Conclusion

[36] I find that the Appellant voluntarily left his job without just cause. Because of this, the Appellant is disqualified from receiving EI benefits.

[37] The appeal is dismissed.

Elyse Rosen
Member, General Division – Employment Insurance Section