



Citation: *SC v Canada Employment Insurance Commission*, 2024 SST 394

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

# Decision

**Appellant:** S. C.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (629736) dated December 27, 2023 (issued by Service Canada)

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**Tribunal member:** Rena Ramkay

**Type of hearing:** Teleconference

**Hearing date:** February 22, 2024

**Hearing participant:** Appellant

**Decision date:** March 4, 2024

**File number:** GE-24-408

## Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Appellant.<sup>1</sup>

[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 prove just cause because he had reasonable alternatives to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

## Overview

[3] The Appellant, S. C., left his job as a shelf stocker on July 20, 2023. He applied for EI benefits on September 13, 2023. 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 must decide whether the Appellant has proven that he had no reasonable alternative to leaving his job.

[5] The Appellant says he had no choice but to quit his job because he could not get to work for his shift at 4:00am after he lost his driver's licence. He says there were no public transportation options and taxis were too expensive to use to get to his workplace. At the same time, the Appellant says he was experiencing health problems due to the stress of his relationship ending and having to leave his home. He felt as though his life was falling apart and he was having anxiety attacks. The Appellant says he paid into EI, and he pays his taxes, so he expects to collect EI when he needs it.

[6] The Commission says the Appellant had reasonable alternatives to leaving when he did. It says he could have:

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<sup>1</sup> A person who applies for employment insurance (EI) benefits is called a "Claimant." A person who appeals a decision of the Canada Employment Insurance Commission (Commission) is called an "Appellant."

- got medical advice that would allow him to continue his sick leave;
- got a medical certificate that would have supported him either quitting or going on a leave of absence from work;
- asked his employer to switch to a different shift temporarily or permanently so he could use public transport; or
- moved to a location closer to his work and consider biking or walking to get to work.

## **Issue**

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

[8] To answer this, I must first 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. The Appellant agrees he quit on July 20, 2023. His Record of Employment (ROE) shows that he quit.<sup>2</sup> I see no evidence to contradict this.

### **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 you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>3</sup> Having a good reason for leaving a job isn't enough to prove just cause.

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<sup>2</sup> See GD3-19.

<sup>3</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

[12] The law explains what it means by “just cause.” The law says 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>4</sup>

[13] It is up to the Appellant to prove he had just cause.<sup>5</sup> He has to prove this on a balance of probabilities. This means he has to show 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.

- **What the Appellant says**

[14] The Appellant says he left his job because he lost his driver’s licence and had no way to get to his workplace for his 4:00am shift. He was charged with driving under the influence (DUI) on December 18, 2019, and his court case didn’t take place until December 23, 2022.<sup>6</sup> The Appellant says he lost his driver’s licence on December 23, 2022, but he can get it back once he pays his fine. He says he can’t pay the fine because he isn’t working. If he could get his EI benefits, he would be able to pay, get his driver’s licence back, and find work because he could drive.

[15] The Appellant explained he lived in a small town outside of the city where he worked. He testified that there is a bus that runs from his town to his workplace, but it doesn’t run before 4:00am. He says the bus doesn’t run daily or hourly. There is taxi service between the two locations, but the Appellant says it costs \$60.00 in each direction, which he says is almost as much as he makes in a shift at his job. And taxis are hard to get when a flight arrives or departs at the nearby airport.

[16] The Appellant says public transportation and taxis weren’t reasonable options to get him to work. He testified that he asked a work colleague who lived farther north if he could pick him up on his way to the workplace. The work colleague agreed to pick him up at a location about one kilometre away from the Appellant’s home. The Appellant

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

<sup>5</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

<sup>6</sup> At the hearing, the Appellant noted his court documentation had an incorrect date (December 23, 2023) but testified the court date was actually December 23, 2022.

says he walked the kilometre to the meeting spot and his work colleague didn't show up. He says this happened a couple of times, after which he gave up on the ride.

[17] The Appellant testified that he had been on sick leave just before leaving his employment. He says he and his spouse split up and her parents packed his things up, put them into the shop/garage, and kicked him out of the house. He says he was living in a shelter and feeling lots of stress and anxiety because of the whole situation.

[18] Even though he mentioned he left his job for health and medical reasons in his application for benefits, the Appellant was adamant at the hearing that his reason for leaving was because he could not get to work due to the loss of his driver's licence.<sup>7</sup> The Appellant testified that getting a medical note to continue his sick leave would not have solved his problem of not being able to get into work. He says he didn't have any other sick leave he could take, and he needed money to be able to pay the fine to get his driver's licence back. He says he could not afford to take time off without pay.

[19] The Appellant says it wasn't a reasonable option for him to move closer to his workplace because rents in the city were too high for him to pay. He says he could not afford to live there even if he could find housing, which he testified was scarce.

[20] When asked if he could have requested different hours of work at his employment, the Appellant says he supposes he could have, but he would have had to figure out the bus schedule. He reiterated that buses don't run regularly in his town. And he says that stocking shelves was too disruptive to do when the store was open to customers, so he would not have been able to do the same work.

- **What the Commission says**

[21] The Commission says the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says the Appellant could have asked his employer for a leave of absence or to continue his sick leave if he wasn't ready to return to work due to his health issues. The Commission says the

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<sup>7</sup> See GD3-8 to GD3-9.

Appellant told it that he had requested a medical leave of absence before leaving, but it was denied.<sup>8</sup> It says the employer denied that the Appellant requested time off or a leave of absence prior to leaving.<sup>9</sup>

[22] While the Commission acknowledges the Appellant may not have had the option of taking public transportation to get to work for 4:00am, it says he could have asked his employer about switching shifts to a time when the Appellant could use public transportation. The Commission says the Appellant also had a reasonable alternative to move closer to his workplace, enabling him to walk or bike to work. Or he could have biked or walked temporarily until he found another solution to get into work.

- **My findings**

[23] I find that the Appellant left his employment because he lost his driver's licence and wasn't able to drive himself to work. While the Appellant said he quit his job for health and medical reasons in his EI application, he says he told his store manager that he left because he had no transportation to get into work.<sup>10</sup> And he was adamant at the hearing that losing his driver's licence was the only reason he quit his employment. He says he liked his job and had no problems at work.

[24] I acknowledge that the Appellant experienced upheaval and considerable stress before and during the time he left his employment. But I accept the Appellant's statement that the main reason he left his employment was due to the loss of his driver's licence. His testimony was provided under oath, firm, and consistent about leaving his employment because he could not drive to work.

[25] The Appellant testified that he lost his driver's licence on December 23, 2022, and that he only needed to pay a fine in order to get it back to be able to drive. He says if he could get EI benefits, he would be able to pay the fine.

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<sup>8</sup> See GD3-29.

<sup>9</sup> See GD3-31 and GD3-21.

<sup>10</sup> See GD3-8 where the Appellant indicated health and medical reasons for leaving his employment. The employer confirms that the Appellant told them he was leaving work because he didn't have transportation to get to work at GD3-31.

[26] The evidence shows the Appellant quit his job in July 2023. This means the Appellant was employed for several months after losing his driver's licence and, before going on sick leave, he was earning money. I find it a reasonable alternative for the Appellant to have paid his fine while he was employed, allowing him to keep his driver's licence and continue driving to work.

[27] As the Appellant quit work in July 2023, he would have been without his driver's licence for about six months. The Appellant said he was getting a ride to work for a short time, and he told the Commission that his spouse had been driving him to and from work.<sup>11</sup> I accept that it wasn't an option any longer for the Appellant's spouse to drive him once they split up.

[28] I am satisfied that, in his small town, public transportation wasn't an option for the Appellant to get to his workplace by 4:00am. I also accept that taxis were too expensive and not always reliable as a mode of transport for him to get to work.

[29] But, at the hearing, the Appellant said he supposes he could have asked his employer to switch shifts to a later start time which might have made public transportation to and from work a more feasible option. I find that it would have been a reasonable alternative for the Appellant to ask his employer to change shifts and figure out how buses could take him to and from work at a different shift time.

[30] Based on the Appellant saying his health/medical condition began to impact his ability to work on March 2, 2023, in his EI application, I can accept that date as the time of his relationship difficulties. When asked, the Appellant says he didn't remember when he left, or was kicked out of, the home he and his spouse had shared. He says he ended up in a men's shelter.

[31] While the Appellant says he could not afford to live in the city where his employment was, he is living there now. While he may not be permanently housed, the evidence shows he has been able to move to the city where he was employed. In my view, this raises doubt about the Appellant's statement that it wasn't a reasonable

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<sup>11</sup> See GD3-29.

option for him to move closer to his workplace. But there isn't enough evidence for me to decide this was a reasonable alternative.

[32] I find that the Appellant hasn't proven he had just cause for voluntarily leaving his employment. The evidence tells me the Appellant had reasonable alternatives to leaving his employment when he did. Reasonable alternatives included: paying his fine to get his driver's licence during the time he was working and had income, and asking his employer if he could work at another time, either temporarily or permanently, to allow him to use public transportation to get to and from work.

[33] The Appellant said he was frustrated that he didn't receive EI benefits. He said he was a Canadian, he paid his taxes, and he wanted to know what happened to the money he has paid into the EI program if he can't get it.

[34] Claimants aren't automatically entitled to EI. Benefits are available only to people who qualify under the law. EI isn't a social assistance program where benefits are determined based on the claimant's needs. Instead, who qualifies, the amount of benefits paid, and for how long they receive benefits is based on specific rules. The program isn't a savings account either. Just because a person contributes to the EI program doesn't entitle them to benefits. Workers have to pay premiums on all insurable earnings up to a yearly maximum, even if they don't plan on getting benefits.

## **Conclusion**

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

[36] This means that the appeal is dismissed.

Rena Ramkay  
Member, General Division – Employment Insurance Section