



Citation: *CG v Canada Employment Insurance Commission*, 2024 SST 519

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

## **Decision**

**Appellant:**

C. G.

**Respondent:**

Canada Employment Insurance Commission

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**Decision under appeal:**

Canada Employment Insurance Commission  
reconsideration decision (0) dated March 20, 2024 (issued  
by Service Canada)

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**Tribunal member:**

Catherine Shaw

**Type of hearing:**

Teleconference

**Hearing date:**

May 7, 2024

**Hearing participant:**

Appellant

**Decision date:**

May 7, 2024

**File number:**

GE-24-1224

## Decision

[1] The appeal is allowed. The Tribunal agrees with the Appellant.

[2] The Appellant has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Appellant 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 Appellant was working while attending a full-time school program. She was referred to this school program by Service Canada through the Lifelong Learning Initiative as a long-tenured worker. Eventually, she found herself unable to keep up with work and school. Her grades were falling and she was at risk of losing her funding for school. She asked her work for a temporary leave, but they couldn't accommodate her. She left her full-time position to focus on school, but continued to work for the employer on a casual on-call basis.

[4] The Canada Employment Insurance Commission (Commission) decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

[5] I have to decide whether the Appellant has proven that she had no reasonable alternative to leaving her job.

[6] The Commission says that the Appellant could have found another job that she could work around her studies.

[7] The Appellant disagrees and states that she was told by the Service Canada officer that she could focus on her school after she was approved for the Lifelong Learning Initiative. She understood that to mean that if she had to leave her job, she could. She was assured that her referral to school would mean that she was entitled to EI benefits while attending her program.

## **Matter I have to consider first**

### **The Appellant's appeal was returned to the General Division**

[8] The Appellant first appealed her denial of EI benefits to the Tribunal's General Division in October 2023. At her hearing, she testified about being referred to her training program.

[9] The Tribunal Member asked the Commission for information about the Appellant's referral to training. The Commission provided some information, but it didn't provide the date that the Appellant was referred to her training. The Tribunal Member dismissed the Appellant's appeal. The Member didn't consider whether the Appellant had a referral at the time that she voluntarily left her job, in part because there was insufficient evidence about the referral and when it happened.

[10] The Appellant appealed this decision to the Appeal Division. The Appeal Division Member found that the Tribunal Member didn't pay enough attention to when the Appellant had been referred to her school program. The timing of the referral matters because only circumstances that existed at the time the Appellant left her job can be considered. The Appeal Division Member ordered the appeal to be returned to the General Division for a new hearing. This decision is a result of that hearing.

## **Issue**

[11] Is the Appellant disqualified from receiving EI benefits because she voluntarily left her job without just cause?

[12] 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

[13] I accept that the Appellant voluntarily left her job. The Appellant agrees that she quit her full-time position to focus on her school program. I see no evidence to contradict this.

### What it means to have just cause

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

[15] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[16] 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.<sup>2</sup>

[17] It is up to the Appellant to prove that she had just cause.<sup>3</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 of the circumstances that existed when the Appellant quit.

### Referral to go to school

[18] Sometimes, the Commission (or a program the Commission authorizes) refers people to take training, a program, or a course.<sup>4</sup> One of the circumstances I have to consider is whether the Commission referred the Appellant to go to school.

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

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

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

<sup>4</sup> See section 25 of the *Employment Insurance Act*.

[19] Case law clearly says that, if you quit your job to go to school without a referral, you don't have just cause for leaving your job.<sup>5</sup>

[20] The parties agree that the Appellant got a referral to go to school.

[21] The Commission says that it approved the Appellant to attend her school program through the Lifelong Learning Initiative as a long-tenured worker. It didn't give a specific date for the referral to her training, though it says her referral was entered in its system in October 2023.

[22] The Appellant says that the Commission referred her to school earlier than that. She testified that she spoke to Service Canada in January 2023. She was told about this program and that she could be paid EI benefits while attending school. She said the Service Canada officer confirmed at that time that she was approved for the program and that she could receive EI benefits while she was in school, even if she wasn't working any longer.

[23] This was important to the Appellant, because shortly after this she began to struggle with balancing her school and work. Her grades fell. Eventually, she was warned by the school that if her grades didn't improve, she could lose her funding. She was worried about whether she would successfully complete the program.

[24] At this point, the Appellant considered pulling back from her job. She asked her manager if she could take a temporary leave from work to focus on her school, but her manager said that wasn't possible.

[25] I find the evidence supports that the Appellant was referred to her school program before she left her job.

[26] Even though the Commission says the Appellant's referral wasn't entered into the system until October 2023, that doesn't mean that the referral didn't take place

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<sup>5</sup> See *Canada (Attorney General) v Caron*, 2007 FCA 204.

before then. I prefer to rely on the Appellant's testimony about when she was referred to her program.

[27] The Appellant gave open and straightforward testimony about the circumstances of her referral to training. She was able to answer questions about the timeline of events and the conversations she had with Service Canada. I find her testimony was credible. I believe the Appellant was referred to her school program before she quit.

[28] Case law says that, if you choose to take training without a referral, your choice goes against the idea behind the EI plan.<sup>6</sup> But this doesn't apply to the Appellant because she had a referral to take training.

[29] The Commission also says that the Appellant doesn't have just cause because she didn't get permission (for example, a letter or authorization to quit to attend the training) before she left. It says that she needed permission to have just cause for leaving.

[30] My understanding is that, sometimes, programs that refer you to training give you a letter or authorization saying that you can quit your job to start training. The Commission will often accept this letter or authorization as proof that you have just cause.

[31] But, this is just the Commission's practice. It is not the law. And I have to apply the law. In other words, having just cause to quit doesn't depend on having a letter or authorization saying you can quit to start training. Instead, I have to look at all of the circumstances and decide whether the Appellant had no reasonable alternative to leaving when she did.

### **The Appellant had no reasonable alternatives to leaving**

[32] Even though the Appellant got a referral to go to school, the Commission says that the Appellant didn't have just cause, because she had reasonable alternatives to

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<sup>6</sup> See *Canada (Attorney General) v Beaulieu*, 2008 FCA 133.

leaving when she did. Specifically, it says that the Appellant could have found other work that she could do around her school schedule.

[33] The Appellant says that she had no reasonable alternative to leaving because she was unable to meet her school obligations with her work schedule. She asked her employer for a temporary leave, so she could get back on track with school, but it was denied. She did look for part-time work but was unable to find any before her school started again in September 2023. Instead, she decided to leave her full-time position and continue working on a casual on-call basis for the same employer.

[34] I find that the Appellant had no reasonable alternatives to leaving her job at the time. She was referred to her training program by the Commission before she left. She tried to continue working full-time while in school, but was unable to meet her school obligations while working full-time. For these reasons, she had no reasonable alternatives to leaving her job to attend her referred school program.

## **Conclusion**

[35] I find that the Appellant isn't disqualified from receiving EI benefits.

[36] This means the appeal is allowed.

Catherine Shaw

Member, General Division – Employment Insurance Section