



Citation: *CW v Canada Employment Insurance Commission*, 2023 SST 2049

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

Decision

Appellant: C. W.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (578470) dated April 14, 2023 (issued by Service Canada)

Tribunal member: Ranjit Dhaliwal
Type of hearing: Teleconference
Hearing date: September 29, 2023
Hearing participant: Appellant
Decision date: October 26, 2023
File number: GE-23-1353

Decision

[1] The appeal is 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. The Appellant didn't have just cause because he had reasonable alternatives to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant resigned from his job on November 10, 2021, and applied for EI benefits. 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 Commission says that the Appellant reduced his availability to work, which can amount to voluntarily leaving.

[6] The Commission came to this conclusion based on their discussions with the Appellant and the employer. It is clear that the Commission and the Appellant were speaking of different jobs and points in time, which has led to some confusion between them. I will write about this confusion in the section titled Matter I have to consider first.

[7] The Appellant agrees he quit but says that he had good reasons for quitting. He felt that the employer's COVID-19 protection wasn't enough and he had issues with management.

Matter I have to consider first

[8] In their conversations before the hearing, the Appellant and the Commission spoke with different employers in mind. The Appellant was working for X (employer) during the relevant period. X is commonly known by the acronym X. The Appellant says

that when the Commission called, they referred to Y as his employer. The Appellant said that he mistook X for a past employer and made statements to the Commission about to his reasons for leaving that job instead of X.

[9] Simply put, the notes and positions of the parties up until now are about different jobs and for different points in time. The Commission inquired about the Appellant's time at X, and the Appellant gave them statements about Y, a past employer where he worked irregular hours and has nothing to do with his claim for benefits.

[10] Regardless, this appeal was a *de novo*, or fresh hearing as if heard for the first time. This means the Appellant's and the Commission's positions about different jobs won't have any bearing on this decision.

Issue

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

[12] 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

[13] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on November 10, 2021. I see no evidence to contradict this.

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

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

[15] The law says that you're 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.

[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.²

[17] It's 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's 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. The law sets out some of the circumstances I have to look at.⁴

The circumstances that existed when the Appellant quit

[18] The Appellant says that he left his job because he felt exposed to COVID-19 at work, and he didn't like how his manager treated him. The Appellant says that he had no reasonable alternative to leaving at that time because he didn't want to expose himself and his family to COVID-19.

[19] The Commission says that the Appellant didn't have just cause because he had reasonable alternatives to leaving when he did. Specifically, it says that the Appellant restricted his hours to the point where he effectively quit. For reasons discussed above, I will consider the Commission's position only where applicable.

[20] I will explain the facts behind the Appellant's reason to quit and my view in detail below by addressing each circumstance on its own.

¹ Section 30 of the *Employment Insurance Act* (Act) explains this.

² See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

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

⁴ Section 29(c) of the Act explains this.

– **Work conditions**

[21] I find that Appellant felt that he wasn't protected from COVID-19 when at the workplace, but those very conditions existed when he accepted the job.

[22] The Appellant applied to work for X before the pandemic and was given a job offer. Due to the COVID-19 shutdown, he never accepted it. The job was a retail position in a mall. When stores began to reopen after being shut down, the Appellant called the store manager asking to be reconsidered for the job. He had an in-person interview at the store and was hired in or around September 2021.

[23] Around the same time, the Appellant had applied to other jobs and hoped to get a job offer in December 2021 or January 2022. The Appellant confirms that he did end up getting a job sometime in January 2022.

[24] When the Appellant started working at the X store, he began feeling exposed to COVID-19. He says the plastic shields separating staff from customers didn't protect him enough from COVID-19. For example, he said shields did nothing when exchanging pens with customers, but he did note that sanitizer was made available to everyone in the store.

[25] The Appellant says he felt pressure from his family members who didn't want him working in a retail environment. He describes his family members as being at high-risk of catching COVID-19 because of their pre-existing medical conditions.

– **Differences with his manager**

[26] Shortly after being hired at X, the Appellant told his manager he needed a specific weekend off for a planned trip. At first his manager agreed but the week leading up to his trip the manager told him he had to work on that particular weekend. The Appellant pushed back and eventually the manager agreed to let him go for the weekend.

[27] This issue with the manager frustrated the Appellant who didn't like his manager's management style. He didn't like that she tried to force him to cancel his trip.

When he returned from the trip, he gave his two-week resignation notice and worked at X for another two weeks.

[28] The Appellant describes the X job as something he considered temporary. He specified that he didn't plan to work there long-term and had originally planned to quit once he was offered a job somewhere else.

The Appellant had reasonable alternatives

[29] It's clear that the Appellant had always planned to quit. What I need to determine is whether he had good cause and no reasonable alternative to quitting when he did so.

[30] The Appellant interviewed for the X job twice— once before the pandemic shutdown and once after. When he went to the post-COVID interview, the Appellant had a chance to consider whether the store's COVID-19 precautions were enough for him and his family. Despite knowing of the store's precautions (or lack of precautions), he accepted the offer to work there.

[31] If he didn't fully understand the exposure to COVID-19 at the time of his job offer, he could have asked for more protective equipment after he had started working. Instead of asking for more protective equipment, he decided not to work there.

[32] I find that the Appellant knew about the work conditions before accepting the job and started to work there anyways.

[33] The Appellant also had issues with his manager. He admits that he didn't raise his issues with her about her management style. Addressing that with his manager would have been a reasonable alternative to simply quitting following his trip.

[34] It is clear that the Appellant simply didn't like his work environment in relation to COVID-19 or his manager's management style.

[35] When the Appellant quit, he didn't have a job offer from anywhere else. I accept that he had applied to other jobs at the time, but when he quit, he hadn't done so

because he was about to start somewhere else. His reasons for quitting were solely because of his COVID-19 concerns and issues with his manager.

[36] These reasons aren't enough to say that the Appellant had just cause to quit when he did. He had reasonable alternatives of dealing with these less-than-ideal issues at X. Since he didn't try to address them, I cannot find that he had no other reasonable alternative to quitting.

Conclusion

[37] I find that the Appellant is disqualified from receiving benefits.

[38] This means that the appeal is dismissed.

Ranjit Dhaliwal
Member, General Division – Employment Insurance Section