



[TRANSLATION]

Citation: *SA v Canada Employment Insurance Commission*, 2024 SST 626

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

## Decision

**Appellant:** S. A.

**Respondent:** Canada Employment Insurance Commission

---

**Decision under appeal:** Canada Employment Insurance Commission reconsideration decision (646677) dated February 29, 2024 (issued by Service Canada)

---

**Tribunal member:** Mylène Fortier

**Type of hearing:** Teleconference

**Hearing date:** On May 7, 2024

**Hearing participant:** Appellant

**Decision date:** May 14, 2024

**File number:** GE-24-961

## Decision

[1] The appeal is dismissed on the issue of voluntary leaving.

[2] The Appellant didn't show that he had been let go or had 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 that he is disqualified from receiving Employment Insurance (EI) benefits.

[3] On the issue of availability, the Appellant is dropping this issue. He confirms that he wasn't available from January 8, 2024, to February 27, 2024, because he was taking full-time training.

## Overview

[4] The Appellant in this appeal is S. A. His job ended on December 8, 2023, and he applied for EI benefits. The Canada Employment Insurance Commission looked at the reasons for the Appellant's separation from employment. It decided that he voluntarily left (or chose to quit) his job without just cause, so it could not pay him benefits.

[5] I must decide whether the Appellant has proven that he had no reasonable alternative to leaving his job.

[6] The Commission says that the Appellant could have kept his job until the end of his employment contract ending in March 2024 to then find another job that met his expectations. He also could have asked for leave without pay to accept potential offers without having to end his employment relationship.

[7] The Appellant disagrees and says that he was let go. He was unhappy at his job because he felt there wasn't enough work to justify his presence full-time. He had nothing to do, and his employer criticized him for being paid for doing nothing. He suggested part-time work to his employer so that he could find another part-time job, but his employer refused.

[8] He also says that they mutually agreed to sever the employment relationship.

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

- **The Appellant said at the hearing that he agrees with the Commission on the issue of his availability**

[9] The February 29, 2024, reconsideration decision deals with two different issues: voluntary leaving without just cause and availability.

[10] Through this decision, the Commission changed its initial decision and decided the Appellant wasn't available for work while taking full-time training from January 8, 2024, to February 27, 2024.

[11] The Appellant confirmed that he wasn't available and wasn't looking for a job during that period. He doesn't dispute that part of the decision.

[12] Because both parties agree and there is nothing in the file that suggests otherwise, I won't do a deeper analysis on availability. I accept the Appellant dropping it.

## **Issue**

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

[14] To answer this question, I must first consider the Appellant's voluntary leaving. I then must decide whether he had just cause for leaving.

## **Analysis**

[15] First, I must decide whether the Appellant voluntarily left his job. It is up to the Commission to prove, on a balance of probabilities, that the Appellant voluntarily left his job.<sup>1</sup> Essentially, the Commission must show that it is more likely than not that the Appellant voluntarily left.

---

<sup>1</sup> See *Green v Canada (Attorney General)*, 2012 FCA 313.

[16] Whether a person has voluntarily left their job is a simple question. The question to be asked is: did the person have a choice to stay or to leave?<sup>2</sup>

[17] The Appellant was a payroll manager. He was hired on a fixed-term employment contract of one year ending in March 2024.

[18] I note that the employer told the Commission that the Appellant wanted to work part-time or that he was going to quit. The Appellant sent a letter to the employer on December 4, 2023, to that effect.<sup>3</sup> The employer couldn't accept his request to work part-time because of the company's needs.

[19] The employer confirmed that the Appellant complained that he didn't have enough work but added that he wasn't working well. However, the employer would have kept the Appellant until the end of his employment contract, since there was a need. Because he wasn't happy at work, they agreed on December 5, 2023, that he would look for another job.

[20] I note that the Appellant says that he was let go. He can't explain the reason his employer gave for his letting him go. He says that his employer accused him of stealing from the company because he was doing nothing.

[21] In his view, there wasn't enough work to keep him busy full-time. He confirms that he was seen playing on his cell phone, since he had nothing else to do. He says he wasn't comfortable earning a salary for a full-time position when he had work for only about two days a week.

[22] He says that his manager told him on December 1, 2023, that he would now work part-time on Mondays and Fridays only, from December 3, 2023.

[23] He worked on Monday, December 3, and showed up for work on Tuesday, since he hadn't had time to finish his work the day before. His employer then told him that he

---

<sup>2</sup> See *Canada (Attorney General) v Peace*, 2004 FCA 56.

<sup>3</sup> See GD3A-17.

could not work on Tuesdays because they had agreed that he only worked on Mondays and Fridays.

[24] This led to a heated discussion, resulting in the employment ending. The Appellant says that his employer told him that the relationship was ending then. He signed a dismissal letter on December 5 which says that the employment was ending by mutual agreement.

[25] He says that he didn't resign. He says that he wrote the letter proposing part-time work or quitting after being let go to protect himself.

[26] The Appellant's version of events isn't consistent with the information on file or with the version he previously gave to the Commission.

[27] I don't believe the Appellant's version of events where he was let go. His letter from December 4 clearly indicates that he was issuing an ultimatum to his employer, asking it to work part-time or to accept his resignation.

[28] The termination letter, dated December 5, 2023, indicates that the employer accepted the Appellant's resignation.<sup>4</sup>

[29] This isn't consistent with his version of events where the employer had decided that he would work part-time from December 3. The Appellant was unable to clarify this point at the hearing; his explanations remained unclear.

[30] When completing the questionnaire for why he voluntarily left, the Appellant indicated that the employer wasn't open to discussing the possibility of part-time work and that this caused him to lose job opportunities. He then decided to leave.<sup>5</sup>

[31] I am of the view that this more contemporaneous evidence, along with the Appellant's letter of resignation, supports voluntary leaving. On a balance of

---

<sup>4</sup> See GD3A-16.

<sup>5</sup> See GD3A-20.

probabilities, I am of the view that the Commission has proven that the Appellant voluntarily left his job.

[32] Although the Appellant appeared to have performance problems at work, I have no evidence that he was let go.

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

[33] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>6</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[34] 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>7</sup>

[35] It is up to the Appellant to prove that he had just cause.<sup>8</sup> 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.

[36] Although the Appellant says that he was let go, he also says that he was unhappy doing nothing at work and could not continue doing. There wasn't enough work to keep him busy full-time. This created tensions because he was being criticized for doing nothing.

[37] He says that leaving was the only reasonable option at that time because he could not keep working under such conditions until the end of his employment contract. He finds it dishonest to receive a full salary when he had nothing to do at work.

---

<sup>6</sup> See section 30 of the *Employment Insurance Act* (Act).

<sup>7</sup> See *Canada (Attorney General) v White*, 2011 FCA 190.

<sup>8</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

[38] 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 could have waited until the end of his employment contract to find another job that met his expectations. Also, he could have asked for unpaid leave to accept other opportunities and not sever his employment relationship.

[39] I find that the Appellant quit his job because he wasn't happy and felt he was short of work. This means that it was a circumstance that existed when the Appellant left his job.

[40] After reviewing the file, hearing the Appellant's testimony, and considering the parties' arguments, I am of the view that the Appellant didn't have just cause for voluntarily leaving his job.

[41] The Appellant, while unhappy with the amount of work, had a full-time job he was paid full-time for. I understand that the Appellant thought it was reasonable to leave this job that was no longer suitable for him when he left.

[42] However, the question isn't whether it was reasonable for the Appellant to leave his job, but rather **whether leaving was the only reasonable course of action** open to him, having regard to all the circumstances.<sup>9</sup>

[43] The purpose of the Act is to compensate persons whose employment has terminated involuntarily and who are without work.<sup>10</sup> That is not the case here.

[44] The Appellant's job didn't end involuntarily. He asked his employer to make him work part-time, and then he would quit. His employer denied his request.

[45] By leaving his job, the Appellant placed himself in an unemployment situation. He hasn't shown that he did everything to avoid putting himself in this unemployment situation.

---

<sup>9</sup> See *Laughland v Canada*, 2003 FCA 129.

<sup>10</sup> See *Gagnon v Canada Employment and Immigration Commission*, 1988 2 SCR 29.

[46] He had reasonable alternatives to leaving when he did. He could have stayed at his job until the end of his employment contract, which was ending three months later. He could also have made sure that he had another job in the immediate future before leaving his job or he could have asked for unpaid leave from his employer.

## **Conclusion**

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

[48] This means that the appeal is dismissed.

[49] I accept the Appellant dropping the issue of his availability.

Mylène Fortier

Member, General Division – Employment Insurance Section