Citation: *MZ v Canada Employment Insurance Commission*, 2024 SST 586

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	M. Z.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (646932) dated February 22, 2024 (issued by Service Canada)

Tribunal member:	Bret Edwards
Type of hearing:	In person
Hearing date:	April 24, 2024
Hearing participant:	Appellant
Decision date:	May 7, 2024
File number:	GE-24-983

Decision

[1] The appeal is dismissed. I disagree 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 left his job as an electrician on December 2, 2023 and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided 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 he had no reasonable alternative to leaving his job.

[5] The Commission says the Appellant could have talked to his employer about his concerns working outside in the cold or gotten a doctor's note saying he couldn't keep working outside before he left his job.

[6] The Appellant disagrees and says that working outside threatened his health and he thought he could quit without any issue because he was still in his probationary period.

Matters I have to consider first

The Appellant asked for an interpreter

[7] The Appellant asked for an interpreter as English isn't his first language. At the hearing, the Appellant confirmed that he wanted the interpreter to translator only what he didn't understand.

[8] So, the hearing was partially conducted through an interpreter to ensure the Appellant could understand and participate in the proceedings.

I accepted the Appellant's post-hearing document

[9] The Appellant sent in a document after the hearing.[1]

[10] I accepted the document as it was discussed at the hearing and relates to the Appellant's argument that he quit his job with just cause.

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 December 2, 2023. 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 are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.[2] Having a good reason for leaving a job isn't enough to prove just cause.

---

[1] GD8-1 to GD8-2.
[2] Section 30 of the *Employment Insurance Act* (EI Act) explains this.

[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.[3]

[17] It is up to the Appellant to prove he had just cause.[4] He has to prove this on a balance of probabilities. This means 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.

The circumstances that existed when the Appellant quit

[18] The Appellant's employer told the Commission:[5]

- When the Appellant was hired, it was made clear to him that he would be working indoors and outdoors. He said that wouldn't be a problem.
- Their outdoor bay runs year-round. The outdoor work was on permanent structures and there was no way to bring it indoors to work on.
- The Appellant never told them that he had issues with working outside.
- There were a couple others who did the same work as the Appellant. It wouldn't have been fair to let the new person only work indoors.
- They expected everyone to work indoors and outdoors.
- It's tough to say if they would have accommodated the Appellant if he had asked to work indoors only when it was cold out.
- They try to be totally understanding of individual situations and they didn't have the chance to go down that road with him and don't know what his specific limitations would have been.
- They think the Appellant had a particularly cold week when he had to work outdoors.

---

[3] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the EI Act.
[4] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.
[5] GD3-31.

[19] The Appellant says:[6]

- He worked as an electrician and quit while he was still in his probationary period.
- As part of his job, he worked on machines when they broke down, specifically the bar bending machines and re-bar.
- He thought he could quit without issue during his probationary period because he thought the probationary period was a time for employees to try out the job and quit if they didn't like it.
- During the first two weeks, he mostly worked indoors. But he worked mostly outside starting in the third week.
- His hands and feet started to hurt from working outside and he couldn't do his job properly, including holding screws.
- He has a history of high blood pressure and his hands and feet were hurting from working outside, so he decided the job wasn't for him and he had to quit.
- His employer told him that he would be sometimes working outside when he was hired.
- But his employer only told him the crane was outside. They didn't tell him the machines were also outside. The machines were used to bend the rebar.
- He changed some fans outside during the first two weeks. It wasn't too cold then.
- He had an exit interview with his employer. During that interview, he told them he was quitting because he couldn't work outside in the cold weather. They didn't respond when he told them that.
- He didn't ask his employer if they could accommodate him before he quit. He didn't think they would help because he was still in his probationary period.

[6] GD2-5, GD3-22, GD3-27, hearing recording.

- He didn't see a doctor about his health concerns with working outside before he quit. He did get a doctor's note after he quit, which says he should avoid working outside due to his medical condition.[7]
- The *Occupational Health and Safety Act* (OHSA) says people have the right to refuse unsafe work. That's what he did here.

Working conditions that constitute a danger to health or safety

[20] The law says a person has just cause for voluntarily leaving their job if they faced working conditions that constitute a danger to health or safety and they had no reasonable alternative to leaving their job.[8]

[21] I find the Appellant hasn't shown that he faced working conditions that constituted a danger to his health or safety before he quit.

[22] The Appellant testified that working outside in cold weather directly threatened his health because he's over 65 and has a history of high blood pressure. His hands and feet started to suffer from the cold, so he decided to quit.

[23] I acknowledge the Appellant says that working outside in cold weather directly threatened his health.

[24] But I find the Appellant hasn't provided sufficient evidence to persuade me that working outside in cold weather directly threatened his health.

[25] As noted above, the Appellant says his employer told him that he would sometimes be working outdoors and specified that the crane was outdoors, but not the machines.

[26] Even if the Appellant's employer didn't tell him the machines were outdoors, I find the fact that they told him he would sometimes be working outdoors and that the crane was outdoors meant that he accepted a job knowing that he would be expected to work

---

[7] GD8-2.
[8] See section 29(c)(iv) of the EI Act.

outdoors some of the time. And in my view, it's reasonable to believe that if the Appellant felt that working outdoors in cold weather threatened his health, he wouldn't have accepted the job in the first place based on what his employer had told him.

[27] I also note the Appellant's Record of Employment indicates that his first day of work was on November 16, 2023[9], which was about one month before the official start to winter.

[28] I find the fact that the Appellant accepted the job so close to winter knowing that he could sometimes work outside shows that he felt he was capable of working outside in weather that was soon likely to get colder without putting his health at risk. Otherwise, it's reasonable to believe he wouldn't have accepted the job in the first place.

[29] The Appellant also submitted a note from his doctor, dated April 13, 2024. The note says the Appellant "should avoid working" in cold weather outside "due to his medical condition".[10]

[30] I acknowledge the doctor's note from the Appellant.

[31] But I find the doctor's note is dated April 13, 2024, which is several months **after** the Appellant quit his job. This means I don't see any evidence prior to the Appellant quitting that working outside in cold weather threatened his health.

[32] Also, even if the doctor's note had been written before the Appellant quit, I find it doesn't show that working outside in cold weather threatened his health.

[33] The doctor's note specifically says the Appellant "should avoid working" outside in cold weather, not that he "must avoid working" outside in cold weather. In my view, it's reasonable to believe that if the Appellant wasn't able to work outside in cold weather for health reasons, the doctor's note would have made this clear. Instead, I find it simply recommends that the Appellant avoid working outside in cold weather, which

---

[9] GD3-20.
[10] GD8-2.

isn’t the same as saying he can’t do this work at all because it would put his health at risk.

[34] For these reasons, I give the doctor’s note little weight here.

[35] The Appellant also testified that the OHSA says people have the right to refuse unsafe work, which is what he did here.

[36] I acknowledge the Appellant’s argument.

[37] But I find the OHSA isn’t relevant here. My jurisdiction is limited to looking at EI-related matters, which means things that fall under the *Employment Insurance Act* and the *Employment Insurance Regulations*. The OHSA isn’t part of either of those, which means I can’t consider it in this appeal. If the Appellant wants to make arguments related to the OHSA, he needs to do that at another tribunal or decision-making body.

[38] Also, even if I could consider the Appellant’s argument about the OHSA, I find the Appellant hasn’t shown that his work was unsafe. As discussed above, he hasn’t provided sufficient evidence to show that working outside in cold weather threatened his health.

[39] So, I find the Appellant didn’t face working conditions that constituted a danger to his health or safety before he quit.

Significant changes in work duties

[40] The law says a person has just cause for voluntarily leaving their job if they experienced significant changes in work duties and they had no reasonable alternative to leaving their job.[11]

[41] I find the Appellant hasn’t shown that he experienced significant changes in work duties before he quit.

---

[11] See section 29(c)(ix) of the EI Act.

[42] The Appellant testified that his employer told him that he would have to sometimes work outdoors. They told him the crane was outside, but they didn't tell him the machines were also outside. He started working outside much more during the third week after mostly working inside the first two weeks.

[43] I acknowledge the Appellant's testimony. But I find he hasn't persuaded me that his work duties changed in any significant way between the time he was hired and when he quit.

[44] I find the fact that the Appellant's employer told him when he was hired that he would sometimes work outdoors means that he knew he might have to do this from the start of his employment.

[45] And even if the Appellant's employer didn't tell him the machines were outside and required the Appellant to start working outside more during the third week, I find this doesn't represent a significant change in the Appellant's work duties. This is because it doesn't change the fact that the Appellant knew from the start that he would sometimes have to work outdoors, which means his work duties didn't radically depart from what he was told when he was hired.

[46] I therefore find the Appellant hasn't shown that he experienced a significant change in his work duties before he quit.

[47] I will now look at whether the Appellant had reasonable alternatives when he quit to determine if he had just cause for leaving his employment.

The Appellant had reasonable alternatives

[48] I find the Appellant had reasonable alternatives to leaving that he didn't explore before he quit.

[49] First, I find the Appellant could have talked to his employer about his concerns with working outdoors in cold weather.

[50] The Appellant testified that he didn't talk to his employer about his concerns before he quit because he was still in his probationary period and thought he couldn't ask for anything during that time.

[51] The Appellant also testified that he thought his probation period was a two-way street: he could choose his employer and they could choose him. Because of that, he thought he could quit during his probationary period without issue.

[52] And the Appellant testified that he wasn't familiar with EI law before he quit, so it's not fair to now say he should have talked to his employer about his concerns prior to leaving.

[53] I acknowledge the Appellant says he thought his probationary period meant that he could quit without issue and that he didn't have to talk to his employer about any concerns he had with the job first.

[54] But I disagree, unfortunately. Just because the Appellant thought his probationary period meant that he could quit without talking to his employer first doesn't mean he shouldn't have at least considered that option too. He hasn't raised any allegations of antagonism with his employer, so there was nothing else stopping him from telling them he was having trouble working in cold weather before he quit. He just made a personal decision not to talk to his employer based on his assumptions about how the probationary period worked without first confirming that these assumptions were correct.

[55] Also, as discussed above, the Appellant hasn't provided sufficient evidence to show that working outside in cold weather threatened his health. Because of that, I find he wasn't in a situation where he had to quit immediately, which means he could have taken the time to talk to his employer first about his concerns before he quit.

[56] And I acknowledge the Appellant says he wasn't familiar with EI law before he quit and that it's not fair to say now that he should have talked to his employer about his concerns first.

[57] But I disagree again, unfortunately. The Appellant's ignorance of the law doesn't excuse him from meeting EI eligibility criteria.[12] In this case, that means showing he did everything he reasonably could to keep working before he quit. But I find he didn't do that. He hasn't shown he was facing an urgent situation where he had to quit immediately, so he could have talked to his employer about his concerns first.

[58] Second, I find the Appellant could have brought a doctor's note to his employer before he quit.

[59] The Appellant testified that it's not fair to say he should have done this because he didn't know the EI law before he quit.

[60] Unfortunately, I disagree. As discussed above, the Appellant's ignorance of the law doesn't excuse him from meeting EI eligibility criteria. And I find since he hasn't shown that he was facing an urgent situation where he had to quit immediately, he could have reasonably gotten a doctor's note detailing his concerns about working outside in cold weather and brought it to his employer in order to ask for a possible accommodation, especially since they said that they were open to discussing that with him if he had brought it up.

[61] Also, as discussed above, the Appellant has submitted a doctor's note that he obtained after he quit his job. Since he was able to do that, I find he reasonably could have done the same thing sooner, before he quit, instead.

[62] So, for the reasons set out above, I find the Appellant had reasonable alternatives to leaving when he did. This means he didn't have just cause for leaving his job.

[63] The Appellant testified that it's not fair for the Commission to say that he can't get benefits because he had good reasons for quitting.

---

[12] See *Canada (Attorney General) v Albrecht*, [1985] 1 F.C. 710; *Canada (Attorney General) v Caron* (1986), 69 N.R. 132; *Canada (Attorney General) v Carry*, 2005 FCA 367; *Canada (Attorney General) v Bryce*, 2008 FCA 118; *Canada (Attorney General) v Somwaru*, 2010 FCA 336.

[64] I acknowledge the Appellant's testimony and sympathize with his situation. Unfortunately, EI isn't an automatic benefit. This means the Appellant has to meet certain conditions to qualify for benefits. And in this case, he hasn't met those conditions because he quit his job without just cause. He may feel he had good reasons for quitting, but this isn't the same as having just cause.[13]

Conclusion

[65] I find the Appellant voluntarily left his job without just cause.

[66] This means the Appellant is disqualified from receiving benefits.

[67] And it means the appeal is dismissed.

Bret Edwards

Member, General Division – Employment Insurance Section

[13] See *Canada (Attorney General)* v *Laughland*, 2003 FCA 129; *Canada (Attorney General)* v *Imran*, 2008 FCA 17; *Tanguay* v *Unemployment Insurance Commission*, A-1458-84; and *Canada (Attorney General)* v *Vairumuthu*, 2009 FCA 277.