[TRANSLATION]

Citation: *CL v Canda Employment Insurance Commission*, 2024 SST 717

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision – Corrigendum

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

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (602253) dated July 25, 2023 (issued by Service Canada)

Tribunal member:	Nathalie Léger
Type of hearing:	Teleconference
Hearing date:	November 17, 2023
Hearing participants:	Appellant Appellant's father
Decision date:	February 21, 2024
File number:	GE-23-2353

Decision

[1] The appeal is allowed.

[2] The Appellant hasn't shown that he had reasonable cause within the meaning of the *Employment Insurance Act* (Act) to leave his job.

[3] But he has shown that he worked enough hours after he voluntarily left his job to qualify for Employment Insurance (EI) benefits.

Preliminary comments

[4] I wish to point out that this matter should have been resolved much more quickly. It is difficult to understand why the Canada Employment Insurance Commission (Commission) initially found that it wasn't necessary for the Canada Revenue Agency (CRA) to decide the number of hours the Appellant actually worked in the qualifying period. I wish to recall that, according to the Act, only this agency has the power to make such a decision. The fact that there isn't a Record of Employment (ROE) on file for the second employer is not a good enough reason to override this obligation.[1]

[5] Also, it is inexcusable that the Tribunal had to make two callback requests before the CRA's decision would be sent even though it was issued on December 21, 2023. Canadians have a right to expect better service from the Commission.

Overview

[6] The Appellant left his job at X on July 2, 2022, to go to school in another city. That same day, he found a new job at X. A few weeks later, he got a job in his field of study—forestry—at X. The forest fires in the summer of 2023 stopped the work in the forest. So, he was laid off and he applied for EI Benefits.

[7] The Commission looked at the Appellant's reasons for leaving his job at X. It found that he voluntarily left (or chose to quit) his job without just cause.

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[1] See GD4-7.

[8] The Appellant applied for EI benefits but the Commission decided that he hadn't worked enough hours to qualify after leaving his job at X.[2]

[9] I have to decide whether the Appellant voluntarily left his job and whether he had no reasonable alternative to leaving. I also have to decide if he worked enough hours to qualify for EI benefits after leaving.

[10] The Commission says that the Appellant voluntarily left his job without exhausting all reasonable alternatives in his case. It says that he could have looked for a new job before leaving his job at X, for example.

[11] The Appellant disagrees and argues that it is unfair that the Commission doesn't take the hours he worked at X into account. He says that, even though he didn't look for work before leaving his job, he knew he would find one very quickly. In fact, he found another job the day he arrived in his new city.

[12] He says that, considering the hours he worked at X, he would have far more than the 700 hours needed to qualify.

Matter I have to consider first

I will accept the documents sent in after the hearing

[13] At the hearing, I asked the Appellant about the fact that his file seemed to be missing a ROE. He says that he worked at X when he arrived in his new city but then worked for another employer, X, in his field of study.

[14] But there was only one ROE in the file—the one for the second employer. Since the hours worked at X weren't recorded by the Commission, it was important to get the ROE.

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[2] Section 7 of the *Employment Insurance Act* (Act) says that the hours worked have to be "hours of insurable employment." In this decision, when I use "hours," I mean "hours of insurable employment."

[15] That is the document that the Appellant sent after the hearing and that is why I accept it as part of this decision.[3]

[16] I will also consider the documents that the Commission filed after it finally asked the CRA to calculate the number of hours that the Appellant worked in the qualifying period.

Issues

[17] Did the Appellant voluntarily leave his job at X? If so, was there no reasonable alternative in his case?

[18] Has the Appellant worked enough hours to qualify for EI benefits?

Analysis

Voluntary leave and reasonable alternatives

– Voluntary leave without just cause

[19] The Appellant says that he voluntarily left his job with X because he could not be transferred to his new city of residence. This is what is indicated on the ROE that his employer issued. No circumstances other than his studies in another city caused him to leave this job.

[20] Since I have no evidence to contradict this, I accept that the Appellant voluntarily left his job.

– Reasonable alternatives

[21] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.[4] Having a good reason for leaving a job isn't enough to prove just cause.

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[3] See GD6.
[4] See section 30 of the Act.

[22] 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.[5]

[23] It is up to the Appellant to prove that he had just cause.[6] 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 he quit.

[24] The Commission says that a reasonable alternative would have been for the Appellant to look for another job and get reasonable assurance of a new job before resigning.[7] It argues that being convinced that you can easily find a such a job isn’t enough under the Act.

[25] The Appellant argues that he made reasonable efforts by asking his employer to be transferred to a branch in his new city. Also, he says that he knew it would not be hard to find a new job and, did find one the same day he moved. Finally, he says that he didn’t have a choice but to leave his job at M because he was moving 2.5 hours away for school.

[26] The Act is a law that has many rules that claimants don’t always understand or aren’t familiar with. Also, the Act often leaves little leeway to the Commission or the Tribunal to adjust to situations that may deserve some flexibility.

[27] In this case, it could seem unfair to apply section 30 of the Act in a literal sense because the Appellant immediately found another job after he voluntarily left X. Unfortunately, the Act doesn’t say that leaving a job to go to school or work in a different city is just cause for voluntarily leaving.

[28] The Act also doesn’t say that immediately finding a new job allows you to avoid the provisions on voluntary leave from being applied. Section 30 of the Act is clear. The

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[5] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3 and section 29(c) of the Act.
[6] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.
[7] See GD4-4.

first paragraph is as follows: “A claimant **is disqualified** from receiving any benefits […] if the claimant […] voluntarily left any employment without just cause….”

[29] The only way a claimant could get benefits is to have the minimum number of hours set out by the Act. In the following section, I will decide whether the Appellant has the number of hours needed.

How to qualify for benefits

[30] Not everyone who stops work automatically receive EI benefits. You have to prove that you qualify for benefits.[8] The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he qualifies for benefits.

[31] To qualify, you need to have worked enough hours within a certain timeframe. This timeframe is called the “qualifying period.”[9]

[32] The number of hours depends on the unemployment rate in your region.[10]

The Claimant’s region and regional unemployment rate

[33] The Commission decided that the Claimant’s region was North Western Quebec, and that the unemployment rate at the time was 4.7%.[11]

[34] This means that the Appellant would need to have worked at least 700 hours in his qualifying period to qualify EI benefits.[12]

– The Appellant agrees with the Commission

[35] The Appellant doesn’t dispute the Commission’s decisions about which region and regional rate of unemployment apply to him.

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[8] See section 48 of the Act.
[9] See section 7 of the Act.
[10] See section 7(2)(b) of the Act and the *Employment Insurance Regulations* (Regulations).
[11] See GD3-25
[12] Section 7 of the Act sets out a chart that tells us the minimum number of hours that you need depending on the different regional rates of unemployment.

[36] There is no evidence that makes me doubt the Commission's decision. So I accept as fact that the Appellant needs to have worked 700 hours to qualify for benefits.

The Claimant's qualifying period

[37] As noted above, the hours counted are the ones that the Claimant worked during his qualifying period. In general, the qualifying period is the 52- weeks before your benefit period would start.[13]

[38] **Your benefit period** isn't the same thing as your **qualifying period**. It is a different timeframe. Your benefit period is the time when you can receive EI benefits.

[39] At no time does the Commission specify the period that it is using is the qualifying period. All it says is that it doesn't count the hours worked at X under section 30(5) of the Act in its calculation. This means that the Commission uses the usual 52-week period.

[40] I have no reason to believe that this isn't the correct qualifying period. The Appellant didn't make any arguments to this effect. I find that the qualifying period to apply is the period from April 15, 2022, to April 16, 2023.

Number of hours that the Appellant worked

[41] Like previously mentioned, I asked the Commission to get a ruling from the CRA on the number of hours worked by the Appellant during the qualifying period. That is because I don't have the power to decide that particular issue.[14] The CRA said that the Appellant had 214 hours at X during the qualifying period.[15]

[42] I don't have the power to change that number. So, this is the number I will use to decide the Claimant's appeal. So, has the Appellant worked enough hours to qualify for EI benefits?

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[13] See section 8 Act.
[14] See section 90 of the Act.
[15] See GD13D and GD13E.

[43] I find that the Appellant has proven that he has enough hours to qualify for benefits, since he has worked 624 insurable hours at X and 214 hours at X. So, he then has a total of 838 insurable hours. Since the eligibility threshold is set at 700 hours, the Appellant meets this requirement. The Commission also acknowledges this.[16]

Conclusion

[44] I find that the Appellant hasn't shown that he had good cause for leaving his job at X.

[45] I also find that the Appellant has worked enough insurable hours after his voluntary leave from X to qualify for EI benefits.

[46] This means that the appeal is allowed.

Nathalie Léger
Member, General Division – Employment Insurance Section

[16] See GD13-1.