



Citation: *TH v Canada Employment Insurance Commission*, 2024 SST 926

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

## Decision

**Appellant:** T. H.  
**Representative:** Gord Fischer

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (606913) dated September 6,  
2023 (issued by Service Canada)

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**Tribunal member:** Audrey Mitchell

**Type of hearing:** Videoconference

**Hearing date:** July 17, 2024

**Hearing participants:** Appellant  
Appellant's representative

**Decision date:** July 31, 2024

**File number:** GE-24-1452

## **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 her job when she did. The Appellant didn't have just cause because she had reasonable alternatives to leaving. This means she is disqualified from receiving Employment Insurance (EI) benefits.

## **Overview**

[3] The Appellant left her job as a letter carrier on June 19, 2023, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that she voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

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

[5] The Commission says the Appellant could have continued working at her job while trying to resolve concerns about her role and job performance with the employer and union. It also says she could have used this time to look for another job.

[6] The Appellant disagrees and states that she was coerced into quitting her job. She says she thought she was resigning from her position, not resigning from the company.

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

### **The appeal was returned to the General Division of the Tribunal**

[7] The Appellant appealed the Commission's reconsideration decision to the General Division of the Tribunal. The General Division dismissed the Appellant's appeal. So, the Appellant appealed that decision to the Appeal Division of the Tribunal.

[8] On April 8, 2024, the Appeal Division allowed the Appellant's appeal. It said the General Division made an error when it found that the Appellant's evidence wasn't credible. So, the Appeal Division sent the case back to the General Division to be reconsidered.

## **Issue**

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

[10] 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 don't agree that the Appellant voluntarily left**

[11] In her application for benefits, the Appellant said she quit her job on June 19, 2023. But she said she was told to submit a resignation letter to avoid a bad probation report.

[12] The Appellant's employer issued a record of employment (ROE) that listed quit as the reason it was issued. The ROE shows that the Appellant was last paid for June 19, 2023.

[13] The Commission asked the Appellant why she quit her job. She gave reasons why she resigned. She said she was told to submit a letter of resignation but would get help to re-apply for work. The Appellant said she found out that the letter she sent the employer was resignation from the company, not resignation from her position as a letter carrier as she intended.

[14] The Appellant testified that she wrote an email to the employer saying that she was resigning. She confirmed that the words she used were, "I would like to resign as a letter carrier". But she said that when she spoke to someone in human resources (HR),

she was told that they took her email as a resignation from the company, not just the position.

[15] The Appellant testified that she believed that the resignation letter would allow her to transfer to a different position in the plant. She said that other employees who were in her training class had been able to do so.

[16] I find from the Appellant's evidence that by sending her employer an email resigning from her position as a letter carrier, she voluntarily left her job. But she said her superintendent and another person she didn't know at the time told her to resign and she would get help to apply for another position.

[17] The Appellant testified that after having a meeting with the superintendent and the other person, she went home and thought about the resignation. She said the next day she got a call asking for the resignation letter. So, I find that the Appellant had time to consider what she would do about her job. I find that ultimately it was her choice prepare and send her resignation.

[18] I acknowledge that the Appellant only intended to leave her position as a letter carrier and not to leave the company. But she said she wanted to transfer to another position and that she would get help to "re-apply" once she resigned.

[19] There's no evidence before me that the Appellant had any position with the company other than the letter carrier position. I find that resigning from that position left her with no position in the company. So, I find it reasonable that the company would consider that the Appellant quit her job. This is consistent with the Appeal Division's comment that by sending a letter resigning from her job as letter carrier, the Appellant ended her employment relationship with the employer.

[20] Based on the above, I find that the Appellant voluntarily left her job.

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

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

[22] 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.

[23] The law explains what it means by "just cause." The law says you have just cause to leave if you had no reasonable alternative to quitting your job when you did. It says you have to consider all the circumstances.<sup>2</sup>

[24] 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. This includes whether there was undue pressure by the employer on the Appellant to leave her job.<sup>4</sup>

[25] The Appellant says she left her job because she was told to resign from her position as letter carrier. The Appellant says she didn't intend to resign from the company.

[26] The Commission says the Appellant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says the Appellant could have continued to work at her job while trying to resolve concerns about her job role and job performance with the employer and the union. It also says she could have done this while looking for another job.

[27] I find that the Appellant had reasonable alternatives to leaving her job when she did. I find that she could have worked with the employer to improve her performance as a letter carrier. I find that she could also have worked with the employer and the union to try to transfer to another position before resigning from her job.

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

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

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

<sup>4</sup> See section 29(c)(xiii) of the Act.

[28] The Appellant worked as a security guard in a postal facility. Then she got a job as a letter carrier at the same facility. She said the letter carrier job started with training. She testified that the training lasted from May 8 to June 16, 2023. I asked the Appellant if this was the kind of training that she had to pass in order to move on to do the job. The Appellant said yes; there were deadlines that had to be met.

[29] The Appellant testified that after the training, the department she went to wasn't ready. She said there were a lot of people on vacation. So, she was put on four different routes, and this was difficult for her. She testified that because of this, her probation report wasn't good.

[30] The Appellant testified about the circumstances around the probation report. She said that after she had finished her route at 6:00 p.m. on Friday, June 16, 2023, she got a notice that a meeting about her probation report would be held at noon on Monday, June 19, 2023. She said that the union was already closed, so there was no shop steward available.

[31] The Appellant attended the meeting alone. She met with the superintendent and another person who was there that she didn't know. She testified that she now knows that other person to be responsible for letter carriers at another depot. The Appellant said she was told the probation report wasn't good. She advised that she should either "re-apply" while she has good standing with the company, or if she continues, she won't be able to get a different job with the company since the next probation report would be bad.

[32] The Appellant said that after the meeting, the other person at the meeting took her aside and suggested that the Appellant resign and re-apply. The Appellant testified that this other person told her that in order to continue working and not lose her status, she needed to resign and the superintended would show her how to re-apply for a different job in the plant.

[33] The next day, on June 20, the Appellant sent the superintendent an email asking what she needed to put in the resignation letter and how to apply for another job. The Appellant attached this email to her notice of appeal.

[34] The Appellant testified that she didn't get a reply to her email to the superintendent. So, she sent a message saying she would like to resign as a letter carrier. But she said she believed that the resignation letter was just to resign from the letter carrier position and that she would be transferred to work in the plant. She added that other people in her training class were able to switch over to work in the plant.

[35] The Appellant said she sent the employer a letter on July 24, 2023, recanting her resignation. She filed a grievance with the employer and was reinstated on January 15, 2024.

[36] The Commission spoke to the superintendent who met with the Appellant about her probation report. She confirmed that she spoke to the Appellant about her performance as a letter carrier and the possibility that she would lose her job due to not meeting the job requirements. She said that this was the only discussion she had with the Appellant. But she stated that it was the Appellant's decision to resign from her position as letter carrier.

[37] I asked the Appellant about what the superintendent said to the Commission, since it is different than what the Appellant said about the superintendent telling her to resign. The Appellant said the superintendent did advise her to resign and that's when the other person took her aside and said the Appellant should do what the superintendent said.

[38] I give more weight to the Commission's evidence from the employer than to the Appellant's testimony about what the superintendent advised her to do. The reason is that the superintendent's comments and questions in the probation report are more consistent with her statement to the Commission that she spoke to the Appellant only about her performance and the possibility of losing her job. I don't find that the questions support that she told the Appellant she should resign from her job.

[39] The comments in the probation report start with problems with the Appellant's performance. I note that the Appellant disputes some of problems that are listed. But the comments conclude with questions to the Appellant. They are the following:

- "[W]hat do you believe you are struggling the most with?
- What specific help have you asked for?
- What further training do you think you require that will help get you up to [employer] standards for delivery?
- How can we support you being successful in your role as letter carrier?

[40] The Appellant confirmed that the superintendent went through the questions listed in the probation report with her at the meeting. And the Appellant said she mentioned encounters she had with dogs in response to what she needed. She testified that the superintendent said this was one of the things they could help her with to do her job more confidently.

[41] I find from the questions, the fact that the superintendent went through them with the Appellant at the meeting, and the Appellant's response with an example of how the employer could help her in her job, that the employer was presenting to the Appellant with a way that she could continue in her role as a letter carrier. I don't find it likely that the employer through the Appellant's superintendent, told her that she had to resign. Rather, I find that it was open to the Appellant to continue in her job and work with the employer to get whatever supports she needed to improve her performance.

[42] I asked the Appellant if it was possible that she misunderstood what the superintendent and other person told her at the meeting. The Appellant said no. She said the reason is that she got a call from the other person at the meeting the next day saying that the superintendent was waiting for the resignation letter. She added that there was no way that the other person would just decide on her own that the Appellant needed to quit her job.



[43] I asked the Appellant if, when sitting in the meeting with the superintendent and the other person, she said that she would resign from her position. She said she didn't. She said that after the other person took her aside and spoke to her, the Appellant told her she needed to talk to her family about the situation. The Appellant said she went home and thought about it, and the next day, she got a call asking for the resignation letter.

[44] Despite the Appellant's testimony that it isn't possible that she misunderstood what the superintendent and other person told her at the meeting, I find it likely that she did. Again, I don't find that the superintendent asking the Appellant what the employer can do to help her is consistent with saying the Appellant should resign. And I make this finding even if the other person who was at the meeting called the Appellant to ask for a letter of resignation. The Appellant said she didn't know this person. She said that she was responsible for letter carriers but at a different depot and she wasn't a superintendent.

[45] The Appellant told the Commission that she was told that if she continued to have unsuccessful probationary reports, the employer would have to release her from the company. I asked her if this was correct. The Appellant said yes, if you have bad probationary reports, that means you're not meeting the requirements of the job so you can't continue. She said if you would like to continue working for the employer, then you need to transfer to a different position, something that you can manage and do.

[46] I asked the Appellant how she became aware that you can transfer to another position if you have a bad probation report. She said this was discussed at the meeting on June 19. The Appellant testified that at the meeting both the superintendent and the other person told her they could show her how to apply internally.

[47] Even if I were to accept that the superintendent was to have helped the Appellant with the letter to "resign" and to get another position, I find that the Appellant had alternatives to leaving her job when she did. I have already found that the Appellant could have worked with the employer to improve her performance as a letter carrier.

[48] The Appellant said she was told not to speak to anyone in HR about the recommendation to resign. But I find that this was a reasonable alternative to leaving her job. She could have asked HR to explain what her options were given the negative probation report.

[49] I accept the Appellant's evidence as fact that because of the time she learned of the meeting with her superintendent on June 19, 2023, there was no union representative available for the meeting. But I find that the Appellant could also have spoken to the union even after the June 19 meeting, about what she says the employer was telling her to do. I find that her outreach to the union in July 2023, to get reinstated to her job supports this.

[50] Based on the above, I find that the Appellant chose to quit her job. But I find that she had reasonable alternatives to doing so, as detailed above. So, I find that she hasn't shown that she had just to leave her job when she did.

## **Conclusion**

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

[52] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section