



Citation: *SJ v Canada Employment Insurance Commission*, 2024 SST 1080

Social Security Tribunal of Canada General Division – Employment Insurance Section

Decision

Appellant: S. J.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (658927) dated April 19, 2024 (issued by Service Canada)

Tribunal member: Audrey Mitchell

Type of hearing: In person

Hearing date: June 27, 2024

Hearing participant: Appellant

Decision date: July 19, 2024

File number: GE-24-1861

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 jobs 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 three of his jobs. He left the first job as a supervisor on April 3, 2023. He left his second job as a supervisor on August 18, 2023. And he left his third job as a supervisor on January 25, 2024. The Appellant applied for EI benefits after leaving the third job. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that he voluntarily left (or chose to quit) each of the three jobs 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 jobs.

[5] For job one, the Commission says the Appellant could have stayed at his job while he looked for a new one, since the situation didn't seem intolerable.

[6] The Appellant disagrees and says his an IT employee yelled at him in front of the operators he supervised and that made him feel uncomfortable.

[7] For job two, the Commission says the Appellant could have worked with his supervisor to resolve any conflict that existed. It also says he could have stayed at this job until he found another one.

[8] The Appellant disagrees and says if he had stayed at this job, he would not have been able to send out résumés for another job since he was working at a daytime job.

[9] For job three, the Commission says the Appellant could have worked with human resources (HR) to try and resolve conflict at work. It says the Appellant could have stayed at the job while he looked for another one.

[10] The Appellant disagrees. He says he felt embarrassed and insulted when his employer yelled at him in front of others. The Appellant questions how he could stay at the job when his manager said he isn't worth the job.

Issue

[11] Is the Appellant disqualified from receiving benefits because he voluntarily left his three jobs 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 each of his three jobs. The Appellant agrees that he quit the jobs on April 3, 2023, August 18, 2023, and January 25, 2024, respectively. 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 each of his jobs 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.¹ Having a good reason for leaving a job isn't enough to prove just cause.

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

[16] 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.²

[17] Some of the circumstances to consider are excessive overtime work or refusal to pay for overtime,³ and antagonism with a supervisor if you aren’t primarily responsible for the antagonism⁴. But you should discuss working conditions with an employer to see if the employer can change the conditions in response to your concerns.⁵

[18] 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 the Appellant quit.

– **Job one⁷**

[19] The Appellant says he left his job because his workstation wasn’t clean or properly set up. He also says he didn’t see a future with this employer.

[20] The Commission says the Appellant didn’t have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says the Appellant could have stayed at this job until he found another one.

[21] I find that the Appellant could have secured another job before leaving this one.

[22] The Appellant was hired to work as a production supervisor. He worked at this job for only one day.

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

³ See section 29(c)(viii) of the Act.

⁴ See section 29(c)(x) of the Act.

⁵ *Canada (AG) v. White*, 2011 FCA 190; *Canada (AG) v. Hernandez*, 2007 FCA 320; *Canada (AG) v. Murugaiah*, 2008 FCA 10.

⁶ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

⁷ See GD3C and GD4C.

[23] The Appellant spoke to the Commission about his reasons for leaving his job. He said the employer didn't give him a desk of his own. He said he had to sit with another operator even though he was hired for a supervisor position. But the Appellant said he didn't speak to the employer about the condition of his workstation. He added that the environment was too dusty, and he didn't want to waste his time at this place of employment.

[24] The Commission spoke to the employer. The employer said the Appellant sent an email a few days after he left his job to say he wasn't happy with the desk he was given since it was dirty. The employer said it checked the desk and it had been cleaned and was in acceptable condition. The employer added that maybe the Appellant realized that the job wasn't a good fit for him.

[25] I asked the Appellant about what the employer told the Commission. The Appellant simply said that what the employer said was wrong about the desk. But he agreed that the job wasn't the right fit for him.

[26] The Commission said the Appellant hadn't given time for his issues with the job to be resolved. In response to this, the Appellant said the dirty desk wasn't a problem for him. He said the job was not in the industry he wanted to work in and that's why he left.

[27] I have no reason to doubt the Appellant's statement that the workspace he was assigned didn't meet his standards. But I find from the Appellant's testimony that he quit the job because it wasn't the right fit for him. While I understand this, I find that the Appellant could have stayed at this job until he found another one.

[28] Based on the above, I find that the Appellant had reasonable alternatives to leaving his job. So, I don't find that he has proven that he had just cause to leave job one when he did.

– **Job two**⁸

[29] The Appellant says he left his job because of the way a co-worker from the information technology (IT) department spoke to him. He also said he wasn't getting paid for overtime and wasn't getting benefits.

[30] The Commission says the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says the Appellant could have continued to work at this job while he looked for a new one. It says the situation didn't seem intolerable.

[31] I find that the Appellant could have stayed at his job and worked with the employer to resolve the issues he had. I don't find that the situation he faced in the approximately six weeks he worked for the employer was so intolerable that he had to leave when he did.

[32] The Appellant worked as a supervisor at job two. He testified that the vice president (VP) knew him very well as a supplier. The VP called and asked the Appellant to work for him. The Appellant said that on his first day, he didn't have a table or machine, and the VP asked him to stay with some other employees and help them.

[33] The Appellant said that one of the reasons he quit his job was excessive overtime. He said he was told that because he was a salaried employee, he wasn't entitled to overtime pay. But he said he didn't agree to this, and it wasn't referenced in his offer of employment.

[34] The employer told the Commission that it didn't force the Appellant to work overtime and that it can't do so legally. I asked the Appellant about this. He agreed that the employer didn't force him to work overtime, but he said the employer kept asking him to work. I asked the Appellant if he could have said no. He replied that he could say no, but he didn't because he understood the pressure to work. He added that this

⁸ See GD3B and GD4B.

wasn't the big issue that led him to quit his job. He testified that in the end he just went in at 8:00 a.m. and finished at 4:30 p.m.

[35] The Appellant sent the Commission email messages to and from payroll/human resources. On July 13, 2023, the Appellant asked the employer if he worked more than 42.5 hours a week, if he would get paid overtime pay. The employer responded by saying that when he worked less than 8.5 hours a day, he was paid 8.5 hours a day as a salaried employee. It said typically, salaried employees aren't entitled to overtime pay.

[36] The Appellant said the employer's practice, namely expecting him to work after regular hours without paying him overtime pay, is contrary to the law. Although the Appellant said the employer kept asking him to work, he agreed that his employer didn't force him to work, and he could have said no. I find that in the circumstances, he could simply have told the employer that he could not work overtime. And concerning not getting overtime pay as a salaried employee, the Appellant could have consulted the provincial authority responsible for employment standards about this question.

[37] The Appellant also spoke about not getting group benefits through the employer. He told the Commission that he asked the employer about health benefits that he was offered at the start of his employment. He said the employer kept saying it was waiting for his application to go through.

[38] In an email exchange with the Appellant on July 24 and 25, 2023, the employer confirmed to the Appellant that there isn't a waiting period for benefits, but it was waiting for the insurance company to process his papers and issue a card.

[39] The Appellant testified that the employer agreed to pay benefits, but they didn't. He said if the employer had applied, he wants to see the evidence, but he's sure it never applied for his benefits.

[40] According to the record of employment the employer issued, the Appellant started working at job two on July 5, 2023. I'm not persuaded that a delay even of up to the six weeks that the Appellant worked for the employer to issue a benefits card shows

that the employer didn't send information to the insurance company. I find that the Appellant could have continued to follow up, either with the employer or directly with the insurance company to finalize his benefits coverage.

[41] The Appellant told the Commission about a specific incident involving a computer monitor that happened two days before he sent his employer a letter of resignation. He said a monitor wasn't working. He saw a spare one and borrowed it. He said an IT person said they didn't give the Appellant permission to use it. When the Appellant spoke to the manager about it, the manager agreed that the Appellant needed to ask permission to use the monitor.

[42] The Appellant testified that the IT person was yelling at him in front the Appellant's employee. The Appellant said he arranged a meeting with the VP and spoke to him about the way the IT person yelled at him. The Appellant said the VP responded by saying that the IT person had worked at the company for a long time and suggested that the Appellant forget the incident.

[43] I asked the Appellant if he tried to speak to anyone other than the VP about the IT person yelling at him. The Appellant said he didn't. He said that when he tried to speak to HR, they told him to deal with the VP because he's in a higher position. The Appellant said there is a president, but if he's correct, the president was in the hospital at the time.

[44] The Commission said the Appellant could have stayed at job two while he looked for another job. It said this because the situation didn't seem intolerable. I asked the Appellant about this. He said that because the IT person yelled at him in front of his employee, he felt uncomfortable. He added that not having benefits and the situation with overtime was affecting him. He felt he wasn't being treated fairly. He also said that he was hired to be a supervisor, but he was running machines.

[45] I'm not satisfied from the Appellant's evidence that he had to leave his job when he did. I don't doubt that having a conflict with another employee in front of a subordinate is uncomfortable. And it would have been ideal for the VP or someone else

to have spoke to the IT person about this. But I'm not satisfied that this single experience gives just cause to leave this job.

[46] I find that the Appellant could have gone back to his VP to explain how the IT person yelling at him in front of his employees might undermine his authority with them. Or the Appellant could have had this conversation with the IT person himself to ensure that it didn't happen again.

[47] I also don't find that taking all of the Appellant's complaints together, namely the delay in getting benefits, the perceived pressure to work overtime without getting overtime pay because he was a salaried employee, and having to run machines when he was a supervisor, in the six weeks he worked for the employer, are circumstances that show the Appellant had no reasonable alternative to leaving his job when he did.

[48] Based on the above, I find that the Appellant had reasonable alternatives to leaving his job. So, I don't find that he has proven that he had just cause to leave job two when he did.

– **Job three⁹**

[49] The Appellant says he left this job because his employer yelled at him in front of his employees. He says this was very embarrassing and made him uncomfortable.

[50] The Commission says the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says the Appellant could have worked with HR to try to resolve the conflict. It also says the Appellant could have looked for another job since the situation didn't seem intolerable.

[51] I find that the Appellant could have tried to resolve his conflict with his manager, with or without the help of HR or the general manager. I find he could also have secured another job before leaving this job.

⁹ See GD3A and GD4A.

[52] The Appellant worked as a supervisor at job three. He testified that his duties included supervising operators, programming machines, troubleshooting issues, making sure work was done efficiently, complying with health and safety requirements, and maintaining standards. The Appellant said that he had two employees on the day shift and two on the second shift that reported to him.

[53] The Appellant described the management structure where he worked. He reported to a manager who reported to a general manager. He said there was a human resources (HR) department and tool room supervisors.

[54] In his application for benefits, the Appellant said his manager didn't recognize his efforts at work and yelled at him in front of other supervisors. He said he had previously asked that his manager to speak to him in private, but his manager insisted on speaking to him in front of other supervisors.

[55] The Appellant testified that he used to have his own business that supplied the employer at job three. He said that's how the manager knew him. The manager offered him a supervisor position. The Appellant took the job, but the employer used a different software than he used at his own business. He said senior management would not allow him to use this software. So, he had to learn the new software. This affected the speed of his work.

[56] The Appellant testified that he had small arguments with his manager in the beginning. He said just before Christmas, he told his manager that if he was not happy with the Appellant, he should let him know and the Appellant would leave. The Appellant said his manager told him to just take his time and try to speed up.

[57] In his request for reconsideration, the Appellant described the incident that led him to leave his job. He told the Commission that his manager yelled at him for not completing a task in the way his manager expected. And because the manager did so in front of other staff, the Appellant said he was very embarrassed. The Appellant testified that he told his manager he wasn't comfortable at this job. He left the same day.

[58] I asked the Appellant if his manager had spoken to him in front of others with a loud voice before. The Appellant said that one week before the final incident, he and his manager had a big argument. He said he just wanted his manager to pull him into a meeting and speak to him there. He said that if you yell at him as a supervisor in front of others, he won't be able to do his job.

[59] I asked the Appellant if he had spoken to anyone in HR about his manager yelling at him. The Appellant said he had not. He said he hadn't been properly introduced to others including the general manager. He said he was introduced to HR, but they were in training, and he didn't have a chance to meet with them.

[60] The Appellant added that even if he had complained about what had happened, since his manager had yelled at him in front of his operators, they would not respect him anymore because he had lost his dignity.

[61] The Commission spoke the employer's HR representative. She said she didn't know the Appellant wasn't getting along with his manager. She said the manager is very nice and has never yelled at anyone. I asked the Appellant about this. He said what the HR representative said isn't true. He added that the manager has a "loose temper".

[62] The Appellant's and Commission's evidence about the whether the manager would have yelled at anyone in the workplace is different. Despite this, I find that if the manager did yell at the Appellant, he could have tried to resolve his conflict with the manager. The Appellant could have tried to get help with this from the HR department or from the general manager.

[63] The HR representative's statement to the Commission supports that the Appellant could have asked for help to deal with the conflict with his manager. She told the Commission that HR is available to all staff for help with anything. She added that it seems like the Appellant's didn't try to resolve things with his manager either, since he quit the same day.

[64] I asked the Appellant about what the HR representative said as noted above. He said this applies to everyone. He explained that if his manager had an issue with him, he should have taken the Appellant to HR. The Appellant said because he had lost the respect of others, he didn't have the heart to work for the employer anymore. He added that he felt broken.

[65] The Commission said the Appellant could have stayed at job three while he looked for another job since the situation didn't seem intolerable. The Appellant responded to this by saying he felt embarrassed and insulted. He questioned how he could expect respect and dignity if he stayed.

[66] The Appellant referred to the section of the law that says a claimant has just cause for leaving a job whether they experience antagonism with a supervisor. Whether the Appellant's manager spoke to the Appellant in a loud voice or yelled at him in front of others, I'm not satisfied that the Appellant had no alternative to leaving his job when he did.

[67] I find that the Appellant and his employer had conflict that resulted from the amount of time the Appellant took to complete his work. And I find that this was something that could be resolved with or without help from HR or the general manager. I don't find that the Appellant did enough to resolve the conflict. And I don't find in the circumstances that the Appellant has shown that his manager was antagonizing him.

[68] Based on the above, I find that the Appellant had reasonable alternatives to leaving his job. So, I don't find that he has proven that he had just cause to leave job three when he did.

Conclusion

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

[70] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section