



[TRANSLATION]

Citation: *TB v Canada Employment Insurance Commission*, 2024 SST 917

Social Security Tribunal of Canada
General Division, Employment Insurance section

Decision

Appellant: T. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (658831) dated April 30, 2024
(issued by Service Canada)

Tribunal member: Mylène Fortier

Hearing type: Teleconference

Hearing date: June 13, 2024

Hearing participant: Appellant

Decision date: July 2, 2024

File number: GE-24-1730

Decision

[1] The appeal is dismissed. The Tribunal disagrees 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 that he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant in this case is T. B. He left his job on March 10, 2024, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It found that the Appellant voluntarily left (or chose to quit) his job without just cause, so it wasn't able to pay him benefits.

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

[5] The Commission says that, instead of leaving his job when he did, the Appellant could have asked for leave or tried to resolve the situation he mentioned by going to the Commission des normes, de l'équité, de la santé et de la sécurité au travail [Quebec's labour standards commission] (CNESST) or to another body that follows the Labour Code.

[6] The Appellant disagrees and says that he had no choice but to leave his job because his employer had practices that were contrary to law and his union wasn't supporting him through the process. He didn't want to make a complaint, so he didn't disclose confidential information about his employer.

Issues

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

[8] To answer this, I must first address the Appellant's voluntary leaving. I then have to decide whether he had just cause for leaving.

Analysis

The parties agree that the Appellant voluntarily left

[9] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on March 10, 2024. The Appellant's resignation email dated March 13, 2024, confirms this.¹ I have no evidence to contradict this.

The parties disagree that the Appellant had just cause

[10] The law says that you are disqualified from receiving benefits if you voluntarily left your job without just cause.² Having a good reason for leaving a job isn't enough to prove just cause.

[11] 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

[12] It is up to the Appellant to prove that he had just cause. 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.⁴

[13] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when he quit. The law sets out circumstances that I have to consider.⁵

¹ See GD3-36.

² See section 30 of the *Employment Insurance Act* (Act).

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

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190 para 4.

⁵ See section 29(c) of the Act.

[14] Once I have decided the circumstances that apply to the Appellant, he will have to show that he had no reasonable alternative to leaving his job at that time.⁶

The circumstances that existed when the Appellant quit

[15] The Appellant's statements and testimony suggest that he believes that some of the circumstances set out in the law may apply. I will look at these specific circumstances in the following sections.

The employer's practices that are contrary to law

[16] The law says that an employer's practices that are contrary to law are a circumstance that should be considered when assessing whether a person has just cause for voluntarily leaving their job.⁷

[17] The Appellant says that his employer had some practices that were contrary to law. Specifically, he says that his employer was forcing him to sign inspection reports when the work wasn't compliant.

[18] He says this went against his code of ethics as a certified non-destructive tester. His work includes approving and signing inspection reports for specialized part manufacturing.

[19] He says that his employer asked him to sign a report and that he refused because he found the part to be non-compliant. He had done this in the past, but this time he refused.

[20] When this last event happened, he refused because he had reported this part as non-compliant before and had recommended corrections. But corrective actions hadn't been taken and it asked him to sign the compliance report anyway. His employer suspended him for one day for refusing to sign.

⁶ See section 29(c) of the Act.

⁷ See section 29(c)(xi) of the Act.

[21] He says that he is subject to a code of conduct and signing this inspection report went against that code. He provided a copy of this code with his reconsideration request to the Commission and an excerpt from his job description.⁸

[22] The employer, on the other hand, told the Commission that the Appellant refused to sign an inspection report because he said that an inspector before him hadn't done his job well. The Appellant signed hundreds of similar reports before and had to sign them even if he detected defects.

[23] It tried to explain to him that it would not hurt his name, because the employer is responsible. He also met with his union to make it clear that the agreement says this was part of his duties, but that he refused to sign and resigned.

[24] The union told the Commission that the Appellant didn't want to understand or sign the documents like the agreement says. He had always signed the reports, but this time he refused to do so, without anyone understanding why, because he has to sign even if he detects a defect. It said this situation had never happened in the past 15 years. The union could not help the Appellant defend his position.

[25] So far, the Federal Court of Appeal hasn't made a decision specifically for these types of circumstances about voluntary leaving. But I find it reasonable to conclude that the employer going against a code of conduct can be considered a practice that is contrary to law.

[26] I find that the Appellant hasn't shown that the employer was forcing him to go against its code of conduct. Reading the code of conduct and the excerpt from the job description, I cannot accept the Appellant's position that signing this inspection report went against that code.

⁸ See GD3-41 and GD3-42.

[27] The fact that the Appellant's union could not support him in refusing to sign the report also shows, in my view, that the Appellant has failed to prove that the employer's practices went against his code of conduct.

[28] While I find that this circumstance doesn't fall within any of the circumstances set out in the law, I find that it still existed when the Appellant left his job. So, I will still consider it in my analysis.

The Appellant had reasonable alternatives

[29] I now have to consider whether the Appellant had no reasonable alternative to leaving at that time.

[30] The Appellant says that was the case because he didn't want to sign this type of report anymore. He didn't want to report the situation to labour standards because he didn't want to be on bad terms with the employer and disclose confidential information. He didn't want to ask for leave because the employer was doing everything to penalize him.

[31] The Appellant says that, after the meeting with the employer on February 29, 2024, he was suspended for one day for refusing to sign. He didn't go to work the day after he was suspended. There was another meeting on March 5, this time with the employer and the union. He again refused to sign the report. He had a very bad headache and asked for three days off. He hadn't received a response from his supervisor about his leave request, so he thought it was authorized.

[32] Human resources contacted him on March 13, 2024, to ask why he was absent when he thought his leave was authorized. He decided to resign because he didn't want to be asked about his absence or sign the report.

[33] The Commission says that, even though the Appellant has the right to object to his employer's practices, he must have used all reasonable alternatives to resolve the situation. The Appellant could have reported the situation to his union, made a complaint to the CNESST or to another body that follows the Labour Code.

[34] I find that the Appellant had reasonable alternatives to leaving his job when he did. A reasonable alternative in his case would have been to report the situation to the CNESST and the organization responsible for his code of conduct. The code says that it is his duty to report any breach of the code of conduct or any attempt to pressure or force a certified person to breach it.⁹

[35] I cannot accept the Appellant's version of events that it wasn't possible for him to report the situation to keep some of the employer's data confidential. These organizations are set up to manage this type of situation, even when there is sensitive or confidential information.

[36] Also, I find that the Appellant didn't want to be questioned about his unauthorized leave. But a reasonable alternative would have been to talk to human resources about this situation instead of resigning.

[37] Given the circumstances that existed when the Appellant quit, he had reasonable alternatives to leaving for the reasons mentioned above.

[38] So, the Appellant didn't have just cause for leaving his job.

Conclusion

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

[40] This means the appeal is dismissed.

Mylène Fortier

Member, General Division – Employment Insurance section

⁹ See GD3-41, para 3.