



Citation: *SB v Canada Employment Insurance Commission*, 2024 SST 1146

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: S. B.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (658270) dated April 18, 2024
(issued by Service Canada)

Tribunal member: Bret Edwards

Type of hearing: In person

Hearing date: July 10, 2024

Hearing participant: None

Decision date: July 16, 2024

File number: GE-24-1647

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 on July 7, 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 that he had no reasonable alternative to leaving his job.

[5] The Commission says the Appellant has given different explanations for quitting his job. It says he didn't bring up the reason he says he left (workplace harassment) when he spoke to the Commission even though he had multiple chances to do so.

[6] The Appellant disagrees and says he left because he was being harassed at work and his employer didn't do anything about it. He has given different explanations for why he initially told the Commission he quit for another reason (he moved to X to be closer to his parents and because he got an offer for affordable housing).

Matters I have to consider first

I chose a different hearing format from what the Appellant asked for

[7] On his notice of appeal, the Appellant selected multiple preferences for his hearing format: by phone, in person, and in writing.¹

[8] On May 27, 2024, the Appellant wrote to the Tribunal to say that he would prefer a hearing in writing because he might have connection issues if the hearing proceeds by phone.²

[9] On May 29, 2024, I sent the Appellant a letter³. In the letter, I explained that:

- The Tribunal's Regulations say that I may hold a hearing in a format other than the one an appellant asks for if I decide that the requested format would not allow for a full and fair hearing.
- After reviewing all of the available evidence for the Appellant's appeal, I don't think a hearing in writing would allow for a full and fair hearing in this case because I still have some questions for him to clarify about why he stopped working.
- In my view, I don't feel that asking the Appellant those questions in writing would allow for a full and fair hearing since that format doesn't easily allow for follow-up questions, if necessary, and could therefore risk limiting any other evidence he provides.
- I'm therefore considering holding the hearing in person instead of in writing because I think it would better allow for a full and fair hearing.
- My reasons for thinking an in person hearing would better allow for a full and fair hearing are:

¹ GD2-3.

² GD5-1.

³ GD6-1 to GD6-4.

- 1) The Appellant initially selected in person as one of his preferred hearing formats on his notice of appeal, which leads me to think that he is open to this format.
- 2) A hearing in person won't create any potential phone connections for the Appellant since we'll be in the same room together.
- 3) A hearing in person would allow the Appellant and I to have a live and free-flowing conversation about his appeal in a way that simply isn't possible in writing.
- Since I'm proposing an alternate form of hearing, I want to hear the Appellant's thoughts on my proposal, specifically if he disagrees with my proposal and why specifically he feels a hearing in person would not allow him to receive a full and fair hearing.

[10] On June 4, 2024, the Appellant responded to my letter.⁴ In his response, he said that he wants to stick with a hearing in writing because that is “the option that is the most reliable for me” and that “I can see some accusations concerning my behaviour and would like things communicated in this medium as to avoid any misinterpretation.” He also said that “having my appeal in writing will at least keep our conversation clear and concise so that it cannot be fabricated.”⁵

[11] After reviewing the Appellant's response, I decided to hold the hearing in person instead of in writing as he requested because I feel the format that he asked for would not allow for a full and fair hearing.⁶ Here are my reasons.

[12] First, I find that a hearing in writing will not allow for a full and fair hearing. This is because I feel there are still gaps in the evidence about why the Appellant stopped working when he did. More specifically, it appears to me that he has provided different reasons at different times for why he stopped working.⁷ I acknowledge that he has tried

⁴ GD7-1 to GD7-3.

⁵ GD7-2.

⁶ Section 2(3)(a) of the *Social Security Tribunal Regulations, 2022* allows me to do this.

⁷ For example, see GD2-9 to GD2-10, GD3-7 to GD3-8, GD3-28, GD3-34.

to address this in some of his submissions as part of this appeal⁸, but I still feel it is necessary to further clarify with him the gaps that I've just mentioned.

[13] In my view, if the hearing were to proceed in writing, more than one round of questions (from me) and answers (from the Appellant) could very well be necessary to clarify the gaps that I've mentioned. Each of these rounds would take time because we would be exchanging correspondence, which in turn would significantly prolong the appeal. I feel this is unfair not only to the Appellant, as it would delay my decision on his appeal, but also to the other party in this appeal (the Commission).

[14] On the other hand, I feel a hearing in person will allow for a full and fair hearing because it will allow for a live conversation in one sitting about the Appellant's departure from his job. This hearing format will allow me to ask the Appellant questions, and, if necessary, follow-up questions in order to clarify the gaps in the evidence, but without the delay that would come from a hearing in writing. And a hearing in person will give the Appellant the opportunity to orally provide evidence to clarify these gaps, along with any other testimony that he feels is relevant to his appeal, again without any delay.

[15] Second, I find the Appellant hasn't persuaded me that a hearing in person will be unfair to him in some way.

[16] I acknowledge the Appellant is concerned that he could be misinterpreted if the hearing is held in person.

[17] But I note that the Tribunal records all oral hearings and that appellants can ask for a recording of the hearing afterwards if they wish. In my view, the fact that the hearing is recorded and that appellants can access a copy of it should address the Appellant's concerns about being misinterpreted in person.

[18] I also acknowledge the Appellant feels a hearing in writing would best allow a conversation between us to be kept clear and concise.

⁸ GD5-2 to GD5-6, GD7-3.

[19] But I disagree. As discussed above, I feel that if the hearing were to proceed in writing, more than one round of questions and answers could very well be necessary to clarify the gaps in the evidence. In my view, if that were to occur, it would extend our conversation in a way that would make it difficult to remain clear and concise because we would be exchanging correspondence over a time period that could span several weeks or even longer.

[20] On the other hand, I feel a hearing in person will best enable a clear and concise conversation to take place. As discussed above, I feel this hearing method will allow for a live and free-flowing exchange in one sitting about the Appellant's departure from his job. This means the conversation will not stretch over several weeks as it would if the hearing were to be held in writing and potentially multiple rounds of correspondence were exchanged.

[21] Third, I find there's no evidence that would lead me to conclude that a hearing in person will be unfair to the Appellant in some way other than what I've already discussed above. The Appellant hasn't provided any such evidence, and since I asked him for his submissions on my proposal to hold the hearing in person instead of in writing, I feel it's reasonable to believe that he would have provided this evidence already.

[22] For these reasons, I decided that the hearing would proceed in person instead of in writing because in writing would not allow for a full and fair hearing in this case.

[23] On June 17, 2024, the Tribunal sent the Appellant a new notice of hearing.⁹ It said that I had decided to change the hearing format to in person because I feel a hearing in writing would not allow for a full and fair hearing in this case.¹⁰ And it said that the hearing in person would take place on July 10, 2024.¹¹

The Appellant wasn't at the rescheduled hearing

⁹ GD9-1 to GD9-3.

¹⁰ GD9-1.

¹¹ GD9-1, GD9-2.

[24] The Appellant wasn't at the rescheduled hearing. A hearing can go ahead without the Appellant if the Appellant got the notice of hearing.¹²

[25] I think the Appellant got the notice of hearing because he provided the Tribunal with an email address on April 30, 2024.¹³ The Tribunal sent hearing documents, including the rescheduled notice of hearing, to this email address. I see no information to indicate that the notice of hearing wasn't successfully delivered to this email address.

[26] I note the Tribunal called the Appellant on July 2, 2024 to remind him of the hearing. According to the call log, the Appellant didn't answer, so a detailed voicemail was left for him.¹⁴

[27] I also note the Tribunal sent the Appellant an email on July 8, 2024 to remind him of the hearing. The email indicated that the hearing was proceeding in person and included the rescheduled notice of hearing as an attached file.¹⁵

[28] Lastly, I note that once the hearing started, I asked Tribunal staff to call the Appellant. According to the call log, the Appellant didn't answer, so a detailed voicemail was left for him.¹⁶

[29] I acknowledge that the rescheduled notice of hearing doesn't include my full reasons for deciding why the hearing would proceed in person instead of in writing.

[30] But I find the rescheduled notice of hearing clearly states the following: "After reviewing his submissions, I have decided to depart from the Appellant's request and change the hearing format to in person because I feel in writing would not allow for a full and fair hearing in this case."¹⁷

¹² Section 58 of the *Social Security Tribunal Rules of Procedure* sets out this rule.

¹³ GD2-3.

¹⁴ See Tribunal's telephone conversation log, July 2, 2024.

¹⁵ See Tribunal's correspondence to the Appellant, July 8, 2024.

¹⁶ See Tribunal's telephone conversation log, July 10, 2024.

¹⁷ GD9-1.

[31] Because of that, I find the Appellant should have understood from the rescheduled hearing notice that I had changed the hearing format from in writing to in person, even if it didn't explain in detail why.

[32] I also note the Appellant didn't respond to any of the Tribunal's efforts to remind him about the hearing in person, including the call made to him during the hearing. In my view, if the Appellant hadn't been aware that I had changed the hearing format to in person, it's reasonable to believe that he would have contacted the Tribunal at some point after receiving one of those calls or the email to clarify. But there's no evidence that he did that, so I can only conclude that the Appellant knew that I had changed the hearing format to in person and simply chose not to attend the hearing.

[33] Since the Appellant got the rescheduled notice of hearing and the Tribunal called and emailed him to remind him about the hearing and then called again once the hearing had started, the hearing took place when it was scheduled, but without the Appellant.

Issue

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

[35] 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 Appellant voluntarily left her job

[36] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit. I see no evidence to contradict this.

What it means to have just cause

[37] The parties don't agree that the Appellant had just cause for voluntarily leaving his job when he did.

[38] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.¹⁸ Having a good reason for leaving a job isn't enough to prove just cause.

[39] 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.¹⁹

[40] It is up to the Appellant to prove that he had just cause.²⁰ 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

[41] The Appellant's employer told the Commission that the Appellant quit for personal reasons.²¹

[42] On his application for benefits, the Appellant indicated the following:

- He quit to follow a parent to a new residence.²²
- His parents are elderly and in poor health, and he moved to be "near them and help look after them".²³
- He asked his employer for a transfer before he quit. They said they would consider it if a position became available.²⁴
- He moved on July 1, 2023 and finished his move on July 8, 2023.²⁵

¹⁸ Section 30 of the *Employment Insurance Act* (EI Act) explains this.

¹⁹ See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 3; and section 29(c) of the EI Act.

²⁰ See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 3.

²¹ GD3-27.

²² GD3-7 to GD3-8.

²³ GD3-8.

²⁴ GD3-9.

²⁵ GD3-10.

[43] The Appellant then spoke to the Commission on July 20, 2023. During that conversation, he said the following²⁶:

- He quit because he moved from X to X.
- He was only working minimal hours at his employer and moved for better work opportunities and to be closer to his ailing parents, who live in X.
- He's not caring for his parents.
- He asked for a transfer before he left, but nothing was available.
- He didn't have another job lined up before quitting.

[44] The Appellant spoke to the Commission again on February 23, 2024. During that conversation, he said the following²⁷:

- He quit to be closer to his family. They are elderly and being in X was too far.
- He was also on the housing list for years and was finally offered a place in X.
- You have to jump on it when you get offered housing.
- He had asked his employer for a transfer, but they didn't get back to him until late August/early September 2023.
- He didn't quit due to an illness in the family.
- He discussed the situation with his employer prior to quitting.
- He made efforts to look for other work prior to quitting.

[45] The Appellant then spoke to the Commission again on February 26, 2024. During that conversation, he said the following²⁸:

- He quit because he found new housing in X.
- He had applied to X housing and had to take it immediately when offered.

²⁶ GD3-22.

²⁷ GD3-25 to GD3-26.

²⁸ GD3-28.

- He wanted to move closer to his elderly parents. He is now 1-1.5 hours closer to his parents.
- He left X because there were very few job opportunities and it was 7 hours from his parents.
- He had been planning to move back.
- He asked for a transfer but it didn't happen because the move was immediate.
- He didn't have a job lined up before quitting.

[46] The Commission then notified the Appellant that he was disqualified from receiving EI benefits because he left his job without just cause.²⁹

[47] The Appellant submitted a reconsideration request following the Commission's decision. His reconsideration request said the following³⁰:

- He had "no choice but to move and accept RGI (rent-geared to income) in X".
- He's an "obligated caregiver looking after my elderly parents who live separately in X".
- His "mom had just been released from the hospital and X housing had a vacancy for me that I had to accept immediately or I would have to reapply on a very long wait list (over 20 years)".
- He asked his employer for a transfer.
- He does have safety concerns and work duties issues with that employer, but he was willing to try a fresh start at a new location and there is one very close to where he lives now.
- But his employer told him in September 2023 that a transfer wasn't possible and to keep applying.
- He was in a very urgent situation when he quit.

²⁹ GD3-30.

³⁰ GD3-34.

- He moved to X in June and continued working the few shifts he had scheduled until July 7, 2023, which was very costly.
- He had minimal hours and there was no way he could continue to work in X and care for his parents in X. It didn't make financial sense.

[48] Along with submitting his reconsideration request, the Appellant submitted a separate form about his voluntary leaving. On it, he indicated that he quit due to an illness in the family and that his presence by the sick person was essential because he is the only family member.³¹

[49] After submitting his reconsideration request, the Appellant then spoke to the Commission on April 18, 2024. During that conversation, he said the following³²:

- He quit due to relocation in June 2023. He moved from X to X.
- He got an offer from the rent-geared-to-income (RGI) program for an apartment in X around June 16, 2023.
- He was given about 48 hours to decide whether to accept the apartment he was offered. He had no choice but to accept the offer.
- Between June 16, 2023 and his last day worked, he had both the X apartment and X apartment and travelled back and forth.
- But it wasn't feasible to keep working in X because of the long commute and cost.
- He's the only child to two elderly parents, one who lives in X and the other in X.
- The reason he applied and accepted the new residence was that he wanted to be closer to his parents.
- He doesn't live with either of his parents.
- He applied for a job transfer, but he wasn't able to get one.

³¹ GD3-36 to GD3-37.

³² GD3-41.

- He was working part-time in X. He thought X had a larger job market when he decided to move.

[50] Following that, the Commission notified the Appellant that it had decided to maintain its initial decision disqualifying him from benefits.³³

[51] The Appellant then appealed the Commission's reconsideration decision to the Tribunal. In his notice of appeal, the Appellant says the following³⁴:

- He had many safety reasons for quitting his job and didn't realize that he would be penalized for not disclosing them.
- He had several incidents with another employee who attacked him but kept their job.
- And his employer recently hired another dangerous employee that was placed under his supervision while working in other departments and he refused to work with them.
- He applied for a transfer while continuing to care for his parents in X.
- He couldn't have realistically continued working in X while living in X.
- He documented and reported more than 40 work incidents.
- Security was hired on and off as a result of some of these incidents, but they didn't enforce or ensure his safety.
- One employee assaulted him by placing their hand over his mouth and told him to shut up. The manager intervened and it was apparently settled by an apology, but he doesn't think so as they allowed that person to keep working.
- Another employee attacked him when he was trying to help them. Several co-workers had reported this to the manager and customers also complained.

³³ GD3-42, GD3-43.

³⁴ GD2-9 to GD2-10.

- This disregard for his health and safety was unacceptable and he refused to do work that could endanger his or customers' safety.
- He felt threatened by these employees and asked for a work transfer as an option before resigning.
- The move to X was to improve his work, career, family, and life.

[52] The Appellant then sent in more documents to the Tribunal.³⁵ In those documents, he says the following:

- He quit because he was “harassed and threatened” at work.³⁶
- He brought up these issues with management before he quit.³⁷
- He talked to four different managers about his situation, and they all agreed that he needed to quit and if his transfer didn’t go through he should reapply.³⁸
- “Many people” told management about what happened to him, including customers, but no action was taken.³⁹
- Moving to X was the best available option due to the situation he faced at work.⁴⁰
- He applied for a transfer to a full-time position in X before he quit, but he found out in “Aug/Sept” that he didn’t get it.⁴¹
- “I was moving because of workplace and residential violence and harassment” and “housing was offered as a solution”.⁴²

³⁵ GD5-1 to GD5-6, GD7-1 to GD7-3.

³⁶ GD5-2.

³⁷ GD5-2.

³⁸ GD5-2.

³⁹ GD5-3.

⁴⁰ GD5-3.

⁴¹ GD5-4.

⁴² GD5-5.

- One employee attacked him by putting their hand over his mouth and told him to shut up and listen. Another employee attacked him after he tried to help them when they were having an “attack episode”.⁴³
- He spoke with five different people, including his manager who quit the same day he did, and they were aware that he quit due to these incidents.⁴⁴

Why the Appellant left his job

[53] I find the Appellant left his job to relocate closer to his parents and to move into affordable housing.

[54] I find the Appellant has given different reasons at different times for why he quit. As discussed above, he initially said that he quit to look after his parents, then said that he quit because he was offered affordable housing and had to look after his parents, and now says he quit because of workplace harassment and safety concerns.

[55] I’ve already explained that I decided to change the hearing format from what the Appellant asked for because I feel there are gaps in the evidence regarding why the Appellant quit his job and that a hearing in person (rather than in writing, as the Appellant requested) would best allow me to fully and fairly ask the Appellant the questions that I feel are necessary to clarify those gaps.

[56] But, as discussed above, the Appellant wasn’t at the hearing. This means I have to rely only on the evidence that is already on file to determine why the Appellant quit his job.

[57] And when I look at that evidence, I find, on a balance of probabilities, that the Appellant quit his job to relocate closer to his parents and to move into affordable housing. This is what he told the Commission during the majority of their conversations and in his reconsideration request, and he hasn’t persuaded me that he actually quit for the reason he now says.

⁴³ GD5-5 to GD5-6.

⁴⁴ GD5-6.

[58] I note that the Appellant has acknowledged that he has given different reasons for why he quit his job. And I note he has provided multiple explanations for why his reasons for leaving his job have changed over time. I will address each of his explanations below.

[59] I will start with the Appellant's explanations for why he wrote what he did on his application for benefits, which is that he quit his job to take care of his parents, as discussed above.

[60] In his notice of appeal, the Appellant says that he "may not have brought all the issues up on my application because I did not have legal counsel when applying" and he "had a lot going on and it's hard to talk openly especially to strangers about sensitive matters."⁴⁵

[61] The Appellant also says that the application process "seemed vague (not very specific" and he was "in a rush due to limited communication services (ie. Internet)." He "answered the questions quickly thinking any pertinent details would be asked if necessary."⁴⁶

[62] The Appellant now says that he wrote what he did on his application because "I was told by my father to put (say) I am moving to help my elderly parents".⁴⁷

[63] The Appellant also now says that "I must have misunderstood the application because I blindly answered questions without hesitation", but "looking back it does not make sense to me" and "the assault and traumatic experiences had me running out the door to quit."⁴⁸

⁴⁵ GD2-9.

⁴⁶ GD2-9.

⁴⁷ GD5-2.

⁴⁸ GD5-4.

[64] And the Appellant says that “I answered the questions on the application that seemed relevant to my eligibility” and “I wasn’t focused on the reasons, I had a wide range of emotions happening, and I was reacting quite spontaneous.”⁴⁹

[65] I’m not persuaded by any of these explanations. This is because they aren’t consistent with one another. In my view, it’s not plausible that the Appellant could have misunderstood the application and thought the questions were vague **and** acted spontaneously and without hesitation while answering the questions **and** relied on his father’s advice to fill out the application. I find that if his father had given him advice as he says, it’s reasonable to believe that this meant he had spent at least some time looking at and thinking about how to fill out the application questions beforehand, which means he couldn’t have also found himself in a situation where he didn’t understand how to fill out the application and went on to quickly answer the questions without much thought.

[66] I’m also not persuaded by any of these explanations because I find they don’t convincingly explain why the Appellant continued to give the same reasons for quitting when he spoke to the Commission and in his reconsideration request.

[67] As discussed above, the Appellant told the Commission multiple times that he quit to relocate closer to his elderly parents and because he received an offer for RGI housing. He also said the same thing in his reconsideration request.

[68] I acknowledge that the Appellant also wrote in his reconsideration request that he had “safety concerns and work duty issues with this [employer]”.⁵⁰

[69] But I find the Appellant didn’t specifically identify safety concerns and work duty issues as a reason why he quit. In my view, he just mentioned it in passing, without any more detail, and only after he wrote that he “had no choice but to move and accept RGI (rent geared to income) in X” and is “an obligated caregiver looking after my elderly parents who live separately in X.”⁵¹ To me, this shows that the Appellant made a clear

⁴⁹ GD5-4.

⁵⁰ GD3-34.

⁵¹ GD3-34.

distinction between why he specifically quit when he did and other things that may have been happening at that time. Otherwise, in my view, it's reasonable to believe that he would have stated unequivocally that workplace harassment was the reason he quit, as he now says.

[70] Also, I find that if the Appellant felt that he had left important details out of his application for benefits and initial conversations with the Commission, his reconsideration request was his chance to set the record straight. The reconsideration request is a form that an appellant submits to the Commission, which means the Appellant had an opportunity to state his case in his own words on that form. Because of that, I find that what the Appellant wrote in his reconsideration request, which is that he quit to relocate closer to his parents and to move into affordable housing, is complete and accurate.

[71] As a result, for the above reasons, I'm not persuaded by any of the Appellant's explanations for why he wrote what he did on his application for benefits.

[72] I will now turn to the Appellant's explanations for why he didn't bring up the reason why he says he now quit sooner.

[73] In his notice of appeal, the Appellant says that he "did not want to bring up all these situations because experiencing them was bad enough."⁵²

[74] I acknowledge that it's plausible that the Appellant would have been reluctant to talk about any incidents of workplace harassment for this reason. But I'm not persuaded by this explanation and don't think it's plausible in this case because I find the Appellant has given other explanations for his delay in revealing why he really quit that are either contradictory or unconvincing, as discussed more below.

⁵² GD2-10.

[75] The Appellant now says that he did bring up the workplace harassment he experienced with the Commission but “it was so long ago the conversation was not up to date.”⁵³

[76] I’m not persuaded by the Appellant’s explanation. There’s no evidence that any of the Commission’s records of its conversations with the Appellant were generated well after the day they took place. And there’s no evidence that the Commission excluded information about the Appellant quitting his job due to workplace harassment from any of its records of those conversations, nor is it clear to me why the Commission would exclude that information since it would be relevant to the issue of whether the Appellant left his job with just cause. So, without contrary evidence, I can’t conclude that the Commission’s records of its conversations with the Appellant are inaccurate or incomplete in some way.

[77] The Appellant also now says that one of the Commission agents he spoke to told him that “the file would be passed on and I thought I would have a chance to correct any information on my file” and “at the time it was late July and a lot was going on.”⁵⁴

[78] I’m not persuaded by the Appellant’s explanation once again. I can only assume that when the Appellant says “late July”, he is referring to July 2023 since that is just after he quit and applied for benefits. And, as noted above, I find the evidence shows that the Appellant had multiple conversations with the Commission **and** submitted his reconsideration request **after** July 2023, and yet didn’t mention workplace harassment as the reason why he quit at any of those points. Because of that, I can only conclude that the Appellant didn’t mention workplace harassment at any of those points because that’s not actually the reason why he quit.

[79] The Appellant also now says that he didn’t realize his employer wasn’t going to tell the Commission about the workplace harassment he experienced.⁵⁵

⁵³ GD5-2.

⁵⁴ GD5-4.

⁵⁵ GD5-2.

[80] Again, I'm not persuaded by the Appellant's explanation. In my view, it's not reasonable to believe that he would have relied entirely on his employer telling the Commission about any workplace incidents he experienced. He had multiple chances to speak to the Commission and explain in writing his situation, but the Commission's record of those conversations and what the Appellant wrote in his reconsideration request show that he didn't bring up workplace harassment as the reason why he quit.

[81] The Appellant also now says that he was reluctant to talk about the real reason he quit because "as I am applying for a new location and a complaint could cause some hesitancy with my new employment opportunity", but "now that [employer] says that I do not qualify and the time has past I have little fear of retaliation from the employee's at this point."⁵⁶

[82] I'm not persuaded by the Appellant's explanation here either. As noted above, the Appellant says that his employer denied his transfer in "Aug/Sep", which I find means August or September **2023** since he says he asked for the transfer before he quit his job, which was in July 2023.⁵⁷ And as noted above, all of the Appellant's conversations with the Commission, except one, and the submission of his reconsideration request occurred **after** September 2023.

[83] Because of that, I conclude that the Appellant shouldn't have been concerned anymore about telling the Commission after September 2023 about incidents of workplace harassment that led to him quitting because his transfer had been denied by then. But since he still continued to tell the Commission that he quit for other reasons, I can only conclude that he didn't actually quit due to workplace harassment as he now says.

[84] So, for the reasons set out above, I'm not persuaded by any of the Appellant's explanations for why he didn't bring up the reason he now says he quit sooner.

⁵⁶ GD5-2.

⁵⁷ GD5-5.

[85] Taken together, I find the Appellant hasn't shown that he quit for the reason he now says (workplace harassment). I'm not persuaded by any of his explanations for why he couldn't reveal this reason sooner. Instead, I find that what he told the Commission throughout their various conversations and in his reconsideration request actually reflects why he quit. He consistently gave the same reasons for quitting during that time.

[86] Because of that, I give more weight to the Commission's record of its conversations with the Appellant and what the Appellant wrote in his reconsideration request about why he quit than I do to what he wrote in his notice of appeal and subsequent submissions. And it means I won't give any further consideration here to the reason for quitting (workplace harassment) that the Appellant discusses in his notice of appeal and subsequent submissions as he hasn't persuaded me that this is why he quit.

[87] As a result, I find, on a balance of probabilities, that the Appellant quit his job to relocate closer to his parents and to move into RGI housing.

Obligation to care for a child or a member of the immediate family

[88] The law says a person has just cause for leaving their job if they had an obligation to care for a child or a member of the immediate family and they had no reasonable alternative to leaving.⁵⁸

[89] I find the Appellant hasn't shown that he had an obligation to care for a child or a member of the immediate family when he quit.

[90] As noted above, the Appellant wrote on his application for benefits that his parents are elderly and in poor health, and he moved to be "near them and help look after them".⁵⁹

[91] Also, as noted above, the Appellant subsequently told the Commission that he quit to be closer to his ailing parents in X but he's not caring for them, he didn't quit due

⁵⁸ See section 29(c)(v) of the EI Act.

⁵⁹ GD3-8.

to an illness in the family, and he left X because it was 7 hours from his parents and he wanted to be closer to them.⁶⁰

[92] And, as noted above, the Appellant then wrote in his reconsideration request that he's an "obligated caregiver" looking after his parents separately in X and that his mom had just been released from the hospital when he received the RGI housing offer.⁶¹ And he indicated on the accompanying voluntary leave questionnaire that he quit due to an illness in the family and that there was no one else who could have taken his place as he's the only family member.⁶²

[93] Lastly, as noted above, the Appellant then told the Commission that he quit because he wanted to be closer to his parents and that he doesn't live with either of his parents.⁶³

[94] Based on the above evidence, I find the Appellant hasn't convincingly shown that he was obligated to care for one or both of his parents when he quit. Instead, I find he has told the Commission different things at different times about the extent of his caregiving responsibilities when he left his job. He also hasn't explained which parent he is responsible for taking care of if there is only one, given that he told the Commission his parents live separately, about an hour apart.

[95] I also note that the Appellant only indicated that he is an obligated caregiver for his parents and his mother got out of the hospital in his reconsideration request, which was after the Commission had disqualified him from receiving benefits. In my view, given that there's no prior evidence that the Appellant told the Commission these things, I'm inclined to believe that he decided to redefine his caregiving responsibilities at that point to try and strengthen his case.

[96] I also find there's no other evidence to show the Appellant was obligated to care for one or both of his parents when he quit. He didn't submit any doctor's letters or other

⁶⁰ GD3-22, GD3-25 to GD3-26, GD3-28.

⁶¹ GD3-34.

⁶² GD3-36 to GD3-37.

⁶³ GD3-41.

medical documents saying that he is the primary caregiver for one or both of his parents. And he didn't submit any evidence that his mother was hospitalized and released into his care, such as a hospital discharge summary or letter from her doctor. In my view, it's reasonable to believe that the Appellant could have submitted at least some of this evidence with his reconsideration request as he would likely have been in regular contact with his parents' doctors if he has been acting as the primary caregiver up to that point.

[97] Without this evidence, I can't conclude that the Appellant had an obligation to care for one or both of his parents and had to quit his job for that reason, particularly in light of his changing statements to the Commission on this subject. As it stands, the Appellant has only persuaded me that he quit to move closer to his elderly parents, not to take care of them. I find this means he wasn't facing an urgent situation where his presence was required in X when he quit.

[98] I therefore find the Appellant hasn't shown that he had an obligation to care for a child or a member of the immediate family when he quit.

[99] I will now look at whether the Appellant had reasonable alternatives to leaving his job when he did.

The Appellant had a reasonable alternative

[100] I find the Appellant had a reasonable alternative to leaving his job.

[101] As noted above, the Appellant says he had no choice but to quit when he did.

[102] I disagree. In my view, the Appellant had a reasonable alternative to leaving that he didn't explore.

[103] More specifically, I find the Appellant could have turned down the affordable (RGI) housing offer in X and continued to work for his employer in X.

[104] I don't see why the Appellant couldn't have kept working for his employer since I've already found that he didn't quit for any reason related to his workplace, as discussed above.

[105] I acknowledge the Appellant told the Commission that he was offered RGI housing in X after being on the waitlist for many years and had to jump on it for that reason or he would be put back on the waitlist.

[106] But I find the Appellant's desire to accept RGI housing was motivated by financial considerations more than anything else.

[107] As discussed above, I find the Appellant hasn't shown that he was obligated to take care of one or both of his parents when he quit, which means he wasn't facing an urgent situation where his presence was required in X. He may have wanted to be nearer to his parents, but this isn't the same as having no choice but to look after them because one or both of them were ill.

[108] Also, as noted above, the Appellant told the Commission that he thought X had a larger job market when he decided to move.⁶⁴ I find this shows that the Appellant viewed quitting his job and relocating to X as an opportunity to improve his financial situation by giving him access to affordable housing (once it had been offered to him) and more opportunities to find full-time work.

[109] I note that case law has consistently said that an appellant's desire to quit to improve their financial situation may be a good reason, but it doesn't amount to just cause.⁶⁵

[110] What this means is that the Appellant can't ask the EI system to bear the burden of his desire for lower rent. While I understand that he had been waiting for years to be offered RGI housing in X, it doesn't change the fact that he created his own

⁶⁴ GD3-41.

⁶⁵ See *Canada (Attorney General) v Richard*, 2009 FCA 122; *Canada (Attorney General) v Lapointe*, 2009 FCA 147; *Canada (Attorney General) v Graham*, 2011 FCA 311.

unemployment situation by quitting to accept that housing in a different city from where he lived when he could have instead remained gainfully employed where he was.

[111] As a result, I find the Appellant could reasonably have kept working instead of accepting the RGI housing offer. He wasn't required to look after his parents when he quit, which means he didn't have to relocate to X at that time, even if he wanted to be closer to them. And despite the fact that he had been on the RGI waiting list for some time, he still could have turned down the housing offer, remained employed in X, and continued to visit his parents in X when he was able to, as that would have allowed him to keep his job instead of putting himself in a situation where he was unemployed.

[112] Additionally, if the Appellant was committed to moving to X to be closer to his parents, I find he could have still reasonably done this in a way that would have allowed him to avoid being unemployed. More specifically, he could have turned down the RGI housing offer and kept working until he found a job in X, at which point he could have then found appropriate housing and relocated.

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

[114] I will add that I sympathize with the Appellant's situation to some degree. He was offered affordable housing after waiting many years for it and felt he had no choice but to accept it to avoid going back on that waitlist.

[115] But, unfortunately, EI isn't an automatic benefit. This means the Appellant has to meet certain conditions to qualify for benefits. And in this case, I find 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.⁶⁶

⁶⁶ 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.

Conclusion

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

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

[118] And it means the appeal is dismissed.

Bret Edwards

Member, General Division – Employment Insurance Section