Citation: *CG v Canada Employment Insurance Commission*, 2024 SST 1644

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

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

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (669164) dated June 27, 2024 (issued by Service Canada)

Tribunal member:	Jean Yves Bastien
Type of hearing:	In Writing
Decision date:	October 14, 2024
File number:	GE-24-2715

Decision

[1] The appeal is allowed. The Tribunal agrees with the Appellant.

[2] The job the Appellant attempted in June of 2019 was not suitable employment, so he wasn't obligated to remain in that job.

[3] The Appellant has proven that he was capable and available for work but unable to obtain suitable employment. This means **he isn't disqualified** from receiving Employment Insurance (EI) benefits.

Overview

[4] C. G. is the Appellant. He is a service technician. He worked for a company until April of 2019. He applied for EI regular benefits, and a claim was established as of April 7, 2019.

[5] The Appellant started searching for a job, and on June 17, 2019, he attempted a new job at X, a firm in the oilfield equipment rental business located in Alberta.

[6] But the Appellant left this job very soon after he arrived. The Appellant says that the job wasn't "suitable employment", so he wasn't obligated to stay.

[7] The Canada Employment Insurance Commission (the Commission) says the Appellant voluntarily left (quit) his new job on June 25, 2019, without just cause, so it wasn't able to continue paying him regular EI benefits after June 23, 2019.

[8] I must decide if the Appellant's new job at X "was not suitable employment."

[9] If the Appellant's new job was suitable employment, then I have to decide whether or not the Appellant had just cause to have left this job when he quit.

Issue

[10] Was the job the Appellant attempted suitable, or not suitable employment?

[11] If the job was suitable, did the Appellant have just cause to have voluntarily left (quit) it?

Analysis

[12] The Appellant obtained a job as a service technician with X which started on June 17, 2019, but he left shortly after he had started.

[13] The employer issued a Record of Employment (ROE) on June 28, 2019, which said that the Appellant had worked 50 hours between the 17th and 25th of June, 2019. The ROE says that the Appellant's reason for departure was "quit".[1]

[14] The Appellant told the Commission in 2024, that he had worked for the employer for only one day, and that he wasn't even expecting to be paid for this.[2]

[15] There is a discrepancy about how long the Appellant actually worked for X. On one hand, on June 25, 2024, the Appellant told the Commission that he worked for only an hour. On the other hand, the ROE issued by the employer on June 28, 2019, says that the Appellant worked for about a week.

[16] The Appellant's version of events depends on a five-year-old memory of his departure from X. I prefer the information supplied by the employer (ROE) to the Commission because it is contemporaneous having been issued within days of the Appellant's departure back in 2019. Therefore I accept that in June of 2019, the Appellant worked 50 hours over the course of eight days.

[1] See ROE serial number W65762783 at page GD3A-13 of the appeal record.
[2] See the Commission's Supplementary Record of Call (SRC) dated June 25, 2024, at page GD3A-53 of the appeal record.

[17] Whether or not the appellant stayed for one day, or eight is not material. Eight days is short enough that it still qualifies as an attempt. It is probably in the Appellant's favour that he stuck with the job for a week – and made a good attempt at it – rather than quitting abruptly one hour after he had arrived.

Was the Appellant's job suitable?

[18] The Appellant argues that the job didn't amount to "suitable employment", so he was justified in not remaining.

[19] The Commission acknowledges that "in the case at hand, the Appellant advised the Commission that he had quit because he felt that the employer's refusal to provide a company vehicle was a modification of the terms of employment agreed upon at the time of his hire." The Commission says that "the Appellant has provided no evidence that the employer had promised the use of a company truck." [3]

[20] The Commission argues that "even if the Commission accepts an agreement had been in place, the claimant must first demonstrate that quitting was his only reasonable alternative.[4]

[21] The Employment Insurance Act (the Act) defines what type of employment is considered "not suitable". The Act tells us that:

> Employment is not suitable employment for Appellant if it is in the Appellant's usual occupation and is either at a lower rate of earnings or on conditions less favorable than those observed by agreement between employers and employees or, in the absence of any such agreement, than those recognized by good employers.[5]

[3] See the Commission's Representations to the Tribunal at page GD4A-4 of the appeal record.
[4] See the Commission's Representations to the Tribunal at page GD4A-4 of the appeal record.
[5] See Section 6.(4) of the *Employment Insurance Act* (*Act*)

[22] The Appellant says that his job at X was not suitable because the employer changed the conditions of employment to less favourable ones after he was hired. The Appellant says that the initial conditions of employment were that he would be assigned a company truck to work out of. The Appellant says that once he arrived at the job site the employer was no longer willing to give him a company truck.[6]

– **Jurisprudence**

[23] The Federal Court of Appeal has established that "the notion of 'suitable employment' is defined in part with reference to the personal circumstances of the Appellant and, more importantly still, that it is a notion that may vary as the period of unemployment is prolonged."[7]

[24] So from this I draw that the Appellant's personal circumstances, such as not having a suitable vehicle, or not wanting to risk his personal vehicle, are an important element to consider in determining whether or his employment was suitable or not.

– **Was a company truck an important condition of employment?**

[25] Sometimes the provision of company vehicle is a discretionary benefit, for example a sedan for salespersons. Other times a company vehicle is a necessary item of equipment needed to perform the company's work, for example a van for delivery drivers. The employer rented oilfield equipment and the Appellant was hired to service this equipment.

[26] By their nature, oilfields are located in remote locations which are mostly accessed by secondary or unimproved "gravel" roads. Using one's own private vehicle to service oilfield equipment would subject one's personal vehicle to excessive wear and tear and road hazards such as flying gravel. Private vehicles may also have difficulty reaching remote sites in the snow and "mud" seasons.

---

[6] See the SRC dated June 25, 2024, at page GD3A-53 of the appeal record.
[7] See *Canada (Attorney General) v Stolniuk*, A-687-93, 686-93; *Canada (Attorney General) v Whiffen*, A-1472-92

[27] So I accept that the provision of a company truck to an employee who is expected to service oilfield equipment would be an important condition of employment, and one which would be recognized as such by good employers in the "oil patch".

– **Not suitable employment**

[28] The Federal Court of Appeal says that suitable employment is defined in part by a claimant's personal circumstances. In the Appellant's case, his personal circumstances were that he didn't want to risk his own vehicle transporting him to and from oilfields, and working out of his private vehicle when he was onsite.

[29] I have accepted above that the provision of a company truck to an employee expected to service equipment found on oilfields would be an important condition of employment.

[30] The Commission argues that "the Appellant has provided no evidence that the employer had promised (agreed to) the use of a company truck."[8] But Section 6.(4)(b) of the Act says, "… or in the absence of any such agreement, … those [conditions] recognized by good employers." So I accept that even if the Appellant hasn't provided any evidence that the employer agreed to provide him a company vehicle, the provision of such a vehicle to an employee expected to travel to and from various oilfields in the course of performing his job, would more likely than not be a "condition recognized by good employers".

[31] I accept that the Appellant expected to be provided with a company truck as a condition of employment, and that when the employer refused to do this, once the Appellant had started work, that this amounted to "conditions less favourable …."

[32] Therefore, given the Appellant's personal circumstances, and a change in employment conditions when the employer refused to provide a company truck contrary to the Appellant's expectations, I find it more likely than not that the Appellant's job at X was not suitable employment.

---

[8] See the Commission's Representations at page GD4A-4 of the appeal record.

Is the Appellant required to prove he had just cause to have quit his job?

[33] I have found above that the Appellant's job at X was not suitable employment for the reasons discussed above. This means that the Appellant was not obligated to accept this employment.

[34] It is to the Appellant's credit that he attempted to make the job work for a week, but he only succeeded in proving that the job was not suitable for him.

[35] Because the Appellant was not obligated to accept the employment, he cannot be said to have quit the job. Therefore the Appellant's situation is not a case of voluntarily leaving a suitable job.

[36] Therefore, the is no requirement for the Appellant to prove that he had just cause to have quit his job at X.

In Addition

[37] The Commission's attention is drawn to the fact the Appellant subsequently found work at Digi Canada starting September 23, 2019. The outcome of this appeal may affect the Appellant's qualification for a subsequent claim for regular benefits following his departure from Digi on December 27, 2019.

Conclusion

[38] I find that the Appellant is not disqualified from receiving benefits.

[39] This means that the appeal is allowed.

Jean Yves Bastien

Member, General Division – Employment Insurance Section