



Citation: *JX v Canada Employment Insurance Commission*, 2024 SST 1645

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: J. X.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (654547) dated March 15, 2024
(issued by Service Canada)

Tribunal member: Paula Turtle

Type of hearing: Teleconference

Hearing date: July 23, 2024

Hearing participant: Appellant

Decision date: July 30, 2024

File number: GE-24-1964

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 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 received EI benefits starting December 13, 2020, and ending December 24, 2021. In September 2021, the Appellant worked on a farm as a labourer. She worked for a very short time. Then she quit that job. The Canada Employment Insurance Commission (Commission) says she didn't tell them she quit. So, her benefits continued after she quit.¹

[4] In 2022, the 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 she wasn't entitled to benefits after the date when she quit. This is called reconsidering their earlier decision.

[5] The Appellant says that it was unfair for the Commission to decide she wasn't entitled to benefits after they were paid to her. And she says she told the Commission that she quit her job. Because the Appellant says these things, I will first decide whether the Commission should have reconsidered its decision to pay her benefits.

[6] Then, if I agree the Commission was entitled to reconsider its decision, I will look at whether the Appellant has proven that she had no reasonable alternative to leaving her job.

[7] The Appellant says the employer told her that her job was full time. But it wasn't. And the job made her tired and sore. So, she quit.

¹ See GD3-71, itemized statement of benefits paid.

[8] The Commission says that, instead of leaving when she did, the Appellant could have kept working at the farm until she got another job. Or she could have asked her employer for a medical leave or for lighter work.

[9] The Appellant asks me to find that she had just cause to leave her job when she did. And she asks me to find that she was entitled to benefits.

Matter I have to consider first

The Appellant sent in some documents after the hearing

[10] The Appellant told me about some e mails during the hearing. I said she could send them in after the hearing. I have accepted the documents and considered them in making my decision.

Issues

[11] Did the Commission have the power to review the Appellant's benefits? And if it did, did the Commission exercise its power judicially?

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

[13] 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

Did the Commission have the power to review the Appellant's benefits?

[14] The Appellant left her job on September 20, 2021. On April 11, 2022, the Commission started to investigate the Appellant's entitlement to benefits. The Commission decided on January 3, 2024, that she left her job without just cause.

[15] The EI Act gives the Commission the authority to reconsider a claim for benefits within 36 months after benefits are paid to a claimant. And the Commission has even

longer (72 months) if a claimant has given false information. In this case, the Commission reconsidered the Appellant's claim for benefits within 36 months.

[16] The Commission has developed a policy. The policy says it will reconsider a claim when one of four conditions exist. The conditions are:

- Benefits have been underpaid.
- Benefits were paid contrary to the structure of the Act.
- Benefits were paid as a result of a false statement.
- The claimant ought to have known they weren't entitled to benefits.

[17] The Commission says that the Appellant made a false statement. She was getting benefits. So, she had to file reports to the Commission. In her report to the Commission for the week she quit her job, she didn't tell the Commission that she had quit.²

[18] So, the Commission relied on that report. They decided to reconsider her entitlement because she made a false statement to the Commission. One of the four conditions was met.

Did the Commission act judicially when it decided the Appellant wasn't entitled to benefits?

[19] It is up to the Commission to show that it exercised its discretion judicially. Acting judicially means that the Commission considered relevant factors, ignored irrelevant factors, and didn't act in a bad faith or discriminatory manner when it reconsidered the Appellant's entitlement to benefits.

² See GD3-22, Full Text Screens, E-report Questions and Answers.

[20] Service Canada representatives phoned and wrote to the Appellant in April 2022. They asked her to explain her position. This was within several months of when she quit.

[21] The Commission relies on the Appellant's on-line report. The Appellant answered "no" to the question that asks if she stopped working for an employer during the period of the report. This isn't correct, because the Appellant quit. So, she did stop working at the farm during the period of the report.

[22] The Appellant says she reported her earnings to the Commission. And she says she told the Commission she quit.

[23] The report shows that she reported her earnings. But it doesn't show that she reported she quit. In fact, the report says the opposite. I asked her about this at the hearing. She explained that she knows she told the Commission she quit because her benefits got cut off. But that's not correct. There is a statement of benefits paid in the file. And it shows that she kept getting benefits.³ Nothing in the file shows that she told the Commission she quit her job at the farm.

[24] The Appellant told me she may have misunderstood the question in the report, and that's why she said "no". And she told the Commission it was a mistake.⁴

[25] The Commission considered that the Appellant didn't say on her report that she quit her job. And the Commission gave the Appellant an opportunity to give it more information about what she told the Commission around the time she quit. So, the Commission didn't base its decision only on what the Appellant said in her report. They also considered her explanations, including her information that she told the Commission she had quit. I find that the Commission considered relevant factors, and didn't consider any irrelevant factors, when it decided that she had quit her job.

³ See page GD3-71. The itemized statement of benefits shows her benefits were reduced because she reported earnings for one week. But her benefits didn't stop.

⁴ See GD3-44.

[26] I also find that there is no reason to believe (and the Appellant hasn't alleged) that the Commission acted in a bad faith or a discriminatory way when they decided that she quit her job.

[27] I find that the Commission acted judicially when it reconsidered its first decision to pay her benefits, and decided that she quit her job so she wasn't entitled to benefits after that date.

The parties agree that the Appellant voluntarily left

[28] The Appellant voluntarily left her job. She agrees that she quit on September 20, 2021. I see no evidence to contradict this.

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

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

[30] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.⁵ Having a good reason for leaving a job isn't enough to prove just cause.

[31] 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.⁶

[32] It is up to the Appellant to prove that she had just cause. 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.⁷

⁵ Section 30 of the *Employment Insurance Act* (Act) explains this.

⁶ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

⁷ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

[33] 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 law sets out some of the circumstances I have to look at.⁸

[34] After I decide which circumstances apply to the Appellant, she then has to show that she had no reasonable alternative to leaving at that time.⁹

The circumstances that existed when the Appellant quit

[35] I will consider if two of the circumstances set out in the law apply. That's because the Appellant says that her hours of work were less than what was promised. This raises the question of whether the conditions of her employment related to wages were significantly changed. And she says that the work was hard, and it made her body sore. This raises the question of whether her working conditions were a danger to her health.

[36] The Appellant told me the employer told her the job was full time when they hired her. The employer told the Commission that's not correct: her employment letter says her working hours weren't fixed, are subject to the needs of the farm, and would be for a maximum of 40 hours per week.¹⁰

[37] The Appellant quit by e mail on September 20, 2021. The e mail says she needed full time work. So, she wouldn't be able to keep the job. The employer responded to that e mail. They said hopefully in the near future they would have a full-time position for her. And they would let her know.

[38] Two days after she quit, the employer met with the Appellant. The employer says that they offered her full-time work. And they offered her housing at a reduced rate.¹¹

⁸ See section 29(c) of the Act.

⁹ See section 29(c) of the Act.

¹⁰ See GD3-57.

¹¹ The employer's information about offering the Appellant more hours is detailed and appears to be backed up by e mails. When the employer told the Service Canada agent about their decision to offer the Appellant full time work, they talked about specific e mails. Including one where one manager asked another one if they could offer the Appellant a full time job. I don't have the e mails, just the employer's description of them.

[39] The Appellant says this isn't true. She agrees there was a meeting. And that the employer wanted her to stay. They talked about providing her with housing. And they said they would give her opportunities. But they didn't offer her full-time work. I asked the Appellant if she could explain why the employer would tell Service Canada that they offered her full-time work if it wasn't true. She didn't know why they would say that.

[40] A manager who was at the meeting sent an e mail to other managers soon after the meeting.¹² The e mail said the Appellant rejected the offer of a full-time job. That's because she was very tired from working at the farm. And that she wanted to pursue a career in yoga.

[41] The Appellant says the work was hard. But she doesn't say she couldn't do the work for medical reasons.

[42] The Appellant told Service Canada she quit because she was tired and sore. She agreed she wanted to be a yoga teacher. But she said at the hearing I should ignore the yoga issue. And that it wasn't a factor.

[43] In the documents she sent in after the hearing, there is an e mail dated September 21, 2021. The e mail says that she needs a full-time position but that she's not leaving only for that reason. She says she's also leaving because she wants to teach yoga. So, I find that yoga was a factor in her decision to leave.

[44] The Appellant told me she thinks that she looked for work while she was still working at the farm.

[45] The Appellant and the employer disagree about some important issues. Generally, I find the employer's evidence more reliable. That is partly because I can tell from the questions and answers recorded by Service Canada agents that the employer

¹² The e mail was read to a Service Canada agent and is recorded at page GD3-58.

was looking at documents and e mails when it answered Service Canada's questions about the Appellant's employment.¹³

[46] There are a few reasons why the Appellant's evidence wasn't as reliable as the employer's:

- The Appellant said she didn't remember everything clearly.
- Some of the Appellant's information was contradictory. She told me at the hearing that yoga wasn't a factor. But her September 21, 2021, e mail says it was.
- Sometimes, the Appellant's evidence wasn't logical. For example, she agrees that there was a meeting after she quit. And that the employer wanted her to stay. But she says they didn't offer her full-time work at that meeting. I prefer the employer's evidence that they did offer the Appellant full-time work, for two reasons:
 - The employer told Service Canada about e mails where managers talked about offering the Appellant full-time work.
 - The meeting was held right after the Appellant told the employer she wanted full-time work. So, it makes sense that they offered her full-time work to induce her to stay.

[47] I find that these circumstances existed when the Appellant quit her job:

- The employer didn't offer the Appellant full time work before she was hired. The employment letter says she would have casual part time work up to 40 hours a week.

¹³ For example, the employer's representatives talked about the Appellant's employment letter. And about e mails after the Appellant quit.

- The work was very hard. She was sore and she didn't want to keep doing the work. But she wasn't so sore that she had concerns about her health.
- She told the employer when she quit that she needed a full-time job.

[48] Right after the Appellant quit, the employer offered her full-time work. The Appellant said no. Even though this offer came after the Appellant quit her job, I am considering it when I decide the circumstances of when she quit. That's because the Appellant's refusal of the offer of full-time work helps me to understand why she quit.

[49] She told the employer she was quitting because she wanted more hours. But she told the Commission she found the work very difficult and tiring.¹⁴ And she told the employer at the time that she wanted to teach yoga.¹⁵ If the Appellant quit because she wanted more hours, then she would have agreed to keep working for the employer when they offered her full-time work just two days after she quit.

[50] I don't find that any of the specific circumstances listed in section 29(c) apply to the Appellant. When she was hired, she wasn't hired as a full-time worker. So, even if she wasn't given full-time hours, that wasn't a change to her wages or salary. And she agreed that the work didn't cause her to have health issues.

The Appellant had reasonable alternatives

[51] I must now look at whether the Appellant had reasonable alternatives to leaving her job when she did.

[52] The Appellant says that she had no reasonable alternative because she wanted to work full time. And the job at the farm wasn't full time. And she was sore and tired.

[53] The Commission disagrees and says that the Appellant could have kept working at the farm until she found another job.

¹⁴ See GD3-34.

¹⁵ See GD7-2

[54] The Appellant thinks she looked for another job before she quit.

[55] I find that the Appellant had reasonable alternatives to quitting when she did.

[56] The Appellant was offered a full-time job right after she quit. So, she could have rescinded her quit and worked full time at the farm. The full-time job offer was made within two days of her quitting. So, a reasonable alternative to quitting when she did would have been to rescind her quit and take the offer of full-time work.

[57] Another reasonable alternative to quitting is that the Appellant could have kept working for the employer until she found another job. The Appellant says she might have looked for another job before she quit. But even if she did look for another job before she quit, it isn't enough to say you looked. She could have kept working at the farm until she found another job.

[58] The Appellant could have asked the employer if there was farm work available that would have been easier on her body.

[59] Considering the circumstances that existed when the Appellant quit, the Appellant had reasonable alternatives to leaving when she did, for the reasons set out above.

[60] This means the Appellant didn't have just cause for leaving her job.

Conclusion

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

[62] This means that the appeal is dismissed.

Paula Turtle

Member, General Division – Employment Insurance Section