Citation: *DK v Canada Employment Insurance Commission*, 2025 SST 173

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	D. K.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (671505) dated September 27, 2024 (issued by Service Canada)

Tribunal member:	Ambrosia Varaschin
Type of hearing:	In person
Hearing date:	December 2, 2024
Hearing participants:	Appellant
Decision date:	January 8, 2025
File number:	GE-24-3601

Decision

[1] The appeal is dismissed.

[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.

[3] This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[4] The Appellant left his job and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it wasn't able to pay him benefits.

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

[6] The Commission says that instead of leaving when he did, the Appellant could have tried to resolve workplace issues or waited until he found a new job.

[7] The Appellant disagrees and says that he had no choice but to quit.

Issue

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

[9] 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

[10] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on March 31, 2024. I see no evidence to contradict this, so I accept it as fact.

What is just cause?

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

[12] 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*.[2]

[13] The law says that you have "just cause" if, considering all the circumstances, you had no reasonable choice but to quit your job when you did.[3]

[14] The Appellant has to prove that he had just cause.[4] 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.[5]

[15] I have to look at all of the circumstances that existed when the Appellant quit to decide if he had just cause. The law sets out some of these circumstances.[6] After I decide which circumstances apply to the Appellant, he then has to show that there was no reasonable alternative to leaving at that time.[7]

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[1] Section 30 of the *Employment Insurance Act* (Act) explains this.
[2] See *Canada (Attorney General) v Imran*, 2008 FCA 17.
[3] See *Canada (Attorney General) v White*, 2011 FCA 190; *Canada (Attorney General) v Macleod*, 2010 FCA 301; *Canada (Attorney General) v Imran*, 2008 FCA 17; and *Astronomo v Canada (Attorney General)*, A-141-97.
[4] See *Green v Canada (Attorney General)*, 2012 FCA 313; *Canada (Attorney General) v White*, 2011 FCA 190; *Canada (Attorney General) v Patel*, 2010 FCA 95.
[5] See *Canada (Attorney General) v Laughland*, 2003 FCA 129.
[6] See section 29(c) of the Act.
[7] See section 29(c) of the Act.

[16] At the end of the hearing, the Appellant asked me to give his statements more weight than the Commission's evidence. He asks that I find that his employer is not credible. He argues that, because the first person at his employer that the Commission spoke to was an accountant and not an HR specialist, his employer lied.

[17] The Appellant says that "[t]he employer's claim (GD3-40) that G. S. served as HR is contradicted by the evidence [he has] provided, including his LinkedIn profile, which clearly shows that his role was limited to accounting and payroll. This misrepresentation is significant because it highlights that there was no independent or unbiased HR department to address [his] concerns. This directly contributed to [the Appellant's] inability to resolve the workplace issues internally." He goes on to argue that this is a "factual inaccuracy" that "must not be overlooked," and that "[m]isrepresenting the role of G. S. as HR creates a false impression of available support mechanisms, which is highly relevant to determining whether [he] had reasonable alternatives before resigning."[8]

[18] At the hearing I told the Appellant that I would not accept any additional evidence regarding the role of G. S. because it was not relevant to his appeal. G. S.'s background is not at issue because the Appellant did not make any attempts to resolve his grievances with anyone, including senior management. That the company did not have a full HR department for the Appellant to access is irrelevant because he had other options to escalate his concerns.

[19] Despite refusing additional evidence for this specific issue, the Appellant submitted G. S.'s email signature line, arguing that "ignoring this evidence risks overlooking key aspects of my case and could constitute an error in law. This evidence is central to demonstrating that [he] had no choice but to resign due to the absence of impartial mechanisms and the misrepresentation of facts by [his] employer (GD3-40)."[9]

[20] While I have already determined this point to be irrelevant, I will explain the issues within the Appellant's position. First, his employer did not make any claims that

[8] See GD07-10.
[9] See GD07-10.

G. S. was an HR specialist—GD03-40 shows the ***Commission's call notes*** that indicate that the person the officer was speaking with did "accounting, payroll, HR." He is the contact person listed on the Appellant's Record of Employment (ROE). There were no statements made by the employer that G. S. was in HR, and G. S. advised the Commission to contact the Appellant's manager for details on why the Appellant quit.

[21] Second, by the Appellant's own testimony, employees wore many hats at this company, so while G. S. may be a trained accountant who does the payroll, there is nothing before me that shows that he doesn't also handle human resources issues as required.

[22] Finally, since G. S. provided a total of three sentences worth of evidence, neither the man nor his statements are "central to demonstrating that [the Appellant] had no choice but to resign."

[23] I see nothing to make me doubt the employer's credibility. Regardless, I don't need to give any serious consideration to the employer's statements because the burden is on the Appellant to prove he had just cause and he has failed to do that. The Appellant's arguments centre on why he left, but to show just cause, he needs to demonstrate why he could not stay. The Appellant's burden is not to prove he was reasonable in leaving his job, but that it would be unreasonable to expect him to continue the employment relationship.

The circumstances that existed when the Appellant quit

[24] The Appellant says that several of the circumstances set out in the law applies to his appeal. He argues that significant changes in work duties, working conditions that constitute a danger to health or safety, practices of an employer that are contrary to law, and antagonism with a supervisor are all conditions that existed at the time he resigned.[10]

[10] See GD02-42 through 54.

– Changes in duties

[25] The Appellant argues that his role as an energy applications engineer was continuously expanded beyond the duties in his employment contract. He says that he was "unilaterally assigned" "entirely inappropriate" non-engineering roles, such as site supervisor and project coordinator, which required manual labour, planning and executing installations in collaboration with other contractors, scheduling, inventory control, logistics management, and monitoring safety procedures. The Appellant believes "[s]uch duties are beneath the role of a P.Eng." were outside his job description, and compromised his professional role.[11]

[26] The Appellant submitted two job advertisements for his role. One is from when he applied in 2016, and one is for the position left vacant by himself. He does not specify which is which. However, he argues that the employer's refusal to change the job duties shows he has just cause to quit.

[27] In the first job description, "Core Responsibilities" include project management, project proposals and analyses, equipment selection and submission, customer support, sales, and service. The duties include everything from meeting with a variety of stakeholders, managing site, managing safety, coordinating shipping and receiving, quoting and pitching projects, managing technicians and contractors, and being the point of contact for sales and service for customers.[12]

[28] In the second job description, "Essential Job Functions" include designing and managing multiple projects through to completion, customer service, multiple weekly sales calls, marketing at trade shows, and managing relationships at all levels of the industry. The duties include layout and design, pricing, procurement and project management.[13]

[29] Regardless of which job description was from 2016, it is clear that the Appellant's position required more than just mechanical engineering duties. While he might be of

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[11] See GD02-42 and 43.
[12] See GD02-11 and 12.
[13] See GD02-26.

the opinion that being a project manager and site supervisor were “entirely inappropriate,” both job descriptions clearly state the position requires these roles on a day-to-day basis. In addition, the Appellant’s job offer stated that part of his renumeration would be “performance commission” and that his role would be “working towards commission based on sales growth.”[14] So, from the start the Appellant knew that his duties would include more than just engineering duties—like sales.

[30] In the Appellant’s submissions, he states, “[w]hen I began working 8 years ago, the context was quite different—Vancouver’s office had just 3 people, and we all wore multiple hats due to limited staffing. **I accepted additional roles** at that time because it was a necessary part of the office’s growth and survival during its infancy.” (emphasis my own) He goes on to say that he “acted in good faith expecting that as the company grew, the roles would evolve and the division of labor would become clear, specifically between engineering and non-engineering tasks.”[15]

[31] At the hearing, the Appellant testified, and confirmed when asked to clarify, that he quit because his job duties stayed the same, when he expected them to change. He testified that when he started in Vancouver, he understood that he would need to do a wide variety of tasks because they were a small office just starting up, and he expected his role to narrow down to purely engineering duties. That his duties *did not change* is largely the reason he decided to leave.

[32] So, by definition, this circumstance does not apply because there were no changes to the Appellant’s duties. Furthermore, the Federal Court of Appeal has said that a claimant who is aware of the existence of the conditions required for employment when he accepts a job cannot later claim that these conditions as just cause for leaving that employment.[16]

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[14] See GD02-18.
[15] See GD02-45.
[16] See *Lau v Canada (Attorney General)*, 1996 FCA A-584-95. See also CUBs 17301, 16883, 44513, and 57988.

– **Dangerous working conditions**

[33] The Appellant argues that being unable to take vacation, "overloading" him with both engineering and non-engineering responsibilities, and doing nothing to promote a health work-life balance constitutes working conditions that are a danger to health and safety. He says that "chronic overload of work is well documented in Canadian occupational health and safety literature such as the Canadian Centre for Occupational Health and Safety (CCOHS) and the Canadian Mental Health Association (CMHA)."[17]

[34] The Appellant argues that "being unable to take [his] full vacation time meant [he] was denied this essential rest period. Instead, vacations were paid out, indicating the company prioritized productivity over employee health." He says that "the overwhelming workload made it impossible for [him] to take [vacation," and that "pay stubs showing vacation payouts prove that the company was aware [he] wasn't taking time off, yet they did nothing to alleviate the burden by redistributing tasks or hiring additional support. It is the employer's responsibility to ensure work-life balance."[18]

[35] While stress and burnout are valid concerns to health and safety, the Appellant has not shown that his working conditions reached the point of a danger to his health. Stress is factor in almost every occupation, but not all levels of stress are a danger to health or safety. And, the level of stress that affects health is different for everyone.

[36] The Appellant has not provided any evidence that he was suffering from stress related disorders or illnesses, nor that he sought the treatment or advice from a medical professional about the danger his workload posed to his health. While he states he has high blood pressure, he hasn't demonstrated that this was caused by his workplace, nor has he provided evidence that his work was dangerous to his high blood pressure, and he has not asked for an accommodation from his employer. He hasn't provided any evidence that he complained to WorkSafe BC or sought their advice. In fact, the

[17] See GD02-48.
[18] See GD02-48.

Appellant told the Commission that he stated his health was not bad enough to request a leave of absence, he just needed a better work-life balance.[19]

[37] Crucially, the Appellant has not provided any evidence that he was denied vacation leave, only that he felt he could not take it. If he truly believes that vacations are vital to managing stress and he was risking his health by not going, one would expect to see requests for leave. Instead, the only evidence regarding vacations before me is that the Appellant was about to leave on a scheduled three week holiday the day after he quit.[20]

[38] So, while the Appellant may have been experiencing work-related stress, there is no evidence that the level of stress was high enough to constitute a threat to health or safety, or that the workload was unusually high or stressful for a similar job in a similar field.

[39] The Appellant argues that the hiring of a technician without proper vetting was a danger to his health and safety because this person had access to "highly valuable intellectual property," and his manager failed to safeguard "critical information in industries that are regularly targeted by international actors for espionage." He says this person was "seriously injured on the job due to lack of proper personal protective equipment (PPE), such as gloves."[21]

[40] This is not a danger to the Appellant's health or safety. The employer's failure to protect its own intellectual property has nothing to do with the Appellant. It does not endanger him or his personal interests unless he is trying to put forward a scenario where he is accosted or held hostage by one of these "international actors" for access to company data, which is highly unlikely to occur. Furthermore, that this person was fired for hurting himself because he didn't wear the proper PPE has nothing to do with the Appellant's personal safety, since PPE was available and there was an expectation

[19] See GD03-38.
[20] See GD03-71 and GD03-42.
[21] See GD02-49.

from the employer that people use it. There is no evidence that the Appellant requested PPE and was refused access, nor that he was encouraged to work without it.

[41] The Appellant also argues that the fire alarm in one of the shared office spaces was too quiet for him to hear with a closed door, and constitutes an unsafe working environment. He testified that he raised this safety concern to the building manager, and their response was unsatisfactory to him. He testified that he did not escalate the issue to his manager or to the fire marshall, but a short time after he complained a contractor did some work on the fire alarm system.

[42] I find this is not constitute a danger to the Appellant's health or safety because there is no evidence before me that the fire alarm was inoperable at the time the Appellant quit. The Appellant hasn't provided a timeline of when this issue occurred or that it contributed to his decision to quit. In fact, it appears the building management addressed his concerns, even if he wasn't satisfied with the response. Furthermore, if the fire alarm was a genuine safety concern to the Appellant, as a professional engineer who understands how important these systems are for public safety, he would have an ethical obligation to raise the issue with the fire department, and he took no further action.

[43] So, I find, on the balance of probabilities, that there were no dangers to the Appellant's health or safety at the time he left.

– **Practices contrary to law**

[44] The Appellant says that his employer engaged in multiple practices that were "truly unacceptable and are contrary to professional ethics and the law." Specifically, he cites the employer's displeasure in renting a scissor lift for a project, failing to acknowledge the Appellants "significant contribution to a major university project," failing to communicate clearly, failing to provide professional support and training, undermining

the Appellant's professional judgement, and violating professional boundaries as company practices that are against the law.[22]

[45] The Appellant appears to have added the term "professional ethics" to subsection 29(c)(xi) and has taken an expansive and excessively liberal interpretation of its application. None of the Appellant's complaints are practices contrary to ***law***. The Appellant has not demonstrated that his employer engaged in illegal activity, required him to participate in illegal activity, or engaged in illegal labour practices.

[46] The Appellant has tried to put forward an argument that by requiring him to be a project manager and/or site supervisor, including all the duties "beneath" him like driving people to the airport, putting lock-out locks on secured equipment, posting schedules, and being on-site "all the time," his employer was forcing him to violate his professional ethics. He says that this violates the Engineers and Geoscientists of British Columbia's (EGBC) "know your limit" code. Like his previous arguments, this too must fail.

[47] According to EGBC's Code of Ethics, professional engineers can only practice in "fields where training and ability make the registrant professionally competent." The Code of Ethics states that "Registrants must also recognize differences among the various engineering and geoscience disciplines. Due to the variation of work within disciplines, it is impossible for a Registrant to have expertise in every area. Competence in an area of engineering or geoscience requires a sufficient level of training and/or experience in that field. Registrants must self-declare areas of practice as part of their annual renewal process."[23]

[48] It is clear from the Code of Ethics that this rule is to prevent engineers practicing outside their own scope of expertise. For example, a mechanical engineer would not be allowed to certify a structural drawing of roof trusses. There is nothing in the Code of Ethics that suggests that a professional engineer would be practicing out of scope by

[22] See GD02-50 through 53.
[23] See GD07-4 and 5.

sweeping, managing schedules, putting locks on equipment, transporting supplies or people, or managing a site.

[49] The Appellant has highlighted other ethical requirements of EGBC Registrants and Firms to "conduct themselves with fairness, courtesy, and good faith towards clients, colleagues, and others, give credit where it is due and accept, as well as give, honest and fair professional comment."[24] The Appellant has argued that his numerous grievances with his manager and company for a toxic work environment means they have breached of the EGBG Code of Ethics as a both a Registrant and a Firm.

[50] At the hearing, the Appellant was asked if he reported anything to his regulatory body. He confirmed that he did not. Since Principle 9 of the Code of Ethics requires members to report to EGBC unethical decisions or practices by others, on the standard of "reasonable and probable grounds," and the Appellant made no such report, I find it more likely than not that there were no practices contrary to the Appellant's professional ethics.

– **Antagonism from a supervisor**

[51] The Appellant argues that he was subjected to a hostile and toxic work environment because he was bullied by his manager.

[52] There is no evidence before me of the Appellant's manager behaving in antagonistic or inappropriate way. The Appellant lists micromanagement and blame-shifting, poor communication, and decision-making issues as reasons for finding his manager to be antagonistic.

[53] The Appellant says his manager "moved key project deadlines to conflict with pre-existing ones, making it impossible to meet all demands." He says that his manager questioned his "competency and copied upper management on these emails, creating undue pressure and stress," instead of adjusting the Appellant's workload. When control boards went missing on a project the Appellant was managing, he was blamed even

[24] See GD07-3 and 6 through 7.

though it was a contractor that was responsible for the problem. And, technicians would ask the Appellant installation and equipment questions instead of the manager—which the Appellant argues is proof of "the pervasive climate of fear within the office."[25]

[54] The Appellant has interpreted regular management behaviour as antagonistic, but directing, assessing, and correcting employee work and performance is a regular managerial duty, not bullying. While the Appellant may have felt that missing control boards was not his fault, as a project manager and site supervisor, it would have been his responsibility. Likewise, it makes sense for technicians to reach out to the engineer managing the project for clarification, help, and advice, rather than the general manager.

[55] While the Appellant may have been unhappy with the way his manager directed his workload, a misalignment in expectations and priorities between a subordinate and supervisor is not antagonism or harassment. It is a management issue.

[56] The Appellant, by his own statements, admits that the issues he had with his manager was a management problem. He says that it was a "dysfunctional and intolerable workplace with an unhealthy dynamic where healthy team collaboration has broken down that was created by the principal and the **failure of management** within the company."[26] (emphasis my own)

[57] The Appellant says that his manager offering a reference after he quit was "manipulative" and "disingenuous" given the hostile and toxic work environment, and "it contrasts sharply with the mistreatment and lack of respect."[27]

[58] It is clear that the Appellant has very strong feelings about his former workplace, and especially his manager, but there is nothing in the Appeal record that supports his assumptions that his manager was disrespectful, aggressive, demeaning, or hostile.

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[25] See GD02-43.
[26] See GD02-53
[27] See GD02-53.

There certainly is no factual basis to conclude that the manager's reference offer was manipulative or disingenuous.

[59] At worst, the Appellant has painted a picture of a demanding job with many responsibilities and projects to juggle while meeting tight deadlines, and that the Appellant felt overwhelmed and overworked.

– **Quit or be fired**

[60] The Appellant argues that he had no choice but to quit when he did because he believed he was about to be fired. The Appellant says that being fired as an engineer is "professional suicide," and he would never be able to work again. He submits that his manager "created a situation where failure seemed inevitable," and that "EI law recognizes just cause when the working conditions are intolerable and continuing employment would lead to a negative outcome, like termination."[28]

[61] The Appellant has not provided any case law or sections of the EI Act or EI Regulations to support his position that "EI law" that just cause exists when a claimant leaves their employment instead of being fired. I note that the Appellant specifically feared being terminated for "incompetence or misconduct." The former would not be a disqualification from benefits because being unsuitable for work is not misconduct. The latter carries the same outcome as leaving without just cause—disqualification. And, it is settled law that quitting instead of being fired for misconduct is considered being terminated for misconduct because the employee has no choice to stay or go.[29]

[62] The Appellant's argument is perplexing because he is trying to justify choosing to be unemployed because of a fear of becoming unemployed. It is the responsibility of insured persons, in exchange for their participation in the EI program, not to transform what was only a risk of unemployment into a certainty. In other words,

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[28] See GD02-47.
[29] See *Canada (Attorney General) v Peace*, 2004 FCA 56; *Canada (Attorney General) v Desson*, 2004 FCA 303; *Bellefleur v Canada (Attorney General),* 2008 FCA 13; and *Canada (Attorney General) v Borden*, 2004 FCA 176.

feeling like you ***could*** lose your job does not justify you forcing the matter by leaving it.[30]

[63] While there is no evidence before me that supports the Appellant's claim that a termination would be "career suicide," this would not be just cause because the Courts have firmly stated that leaving employment to improve your personal situation is not just cause.[31] "While it is legitimate for a worker to want to improve his life by changing employers or the nature of his work, he cannot expect those who contribute to the employment insurance fund to bear the cost of that legitimate desire."[32] No matter how admirable or legitimate a claimant's desire may be to improve their lot in life, this desire is not a legal justification for voluntarily leaving one's employment.[33] And, "sincerity and inadequate income do not constitute just cause under section 30 of the Act, allowing [the claimant] to leave his employment and making the Employment Insurance system bear the cost of supporting him."[34]

[64] Regardless, the Appellant has not provided any evidence to support his assumption that he was about to be fired.

[65] The Appellant argues that he was the one who requested a meeting, and the response was "there are issues with your performance," however the timestamps of the email chain show a different story. On March 26, 2024, the Appellant sent files to his manager at 6:20 pm. At 6:26 pm his manager responds that they "will have a meeting later in April." At 6:51 pm, the Appellant responded that "[i]t would definitely be a good idea for us to meet later in April and discuss how one can better define the job responsibilities of Engineers versus Technicians in Aqua Air…Looking forward to our discussion."[35]

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[30] See *Canada (Attorney General) v Langlois*, 2008 FCA 18 and *Tanguay v Unemployment Insurance Commission,* 1458-84.
[31] See *Canada (Attorney General) v Tremblay*, 1994 FCA A-50-94; *Astronomo v Canada (Attorney General),* 1998 FCA A-141-92); and *Canada (Attorney General) v Martel*, 1994 FCA A-1691-92.
[32] See *Canada (Attorney General) v Langlois*, 2008 FCA 18 at para 31.
[33] See *Canada (Attorney General) v Richard*, 2009 FCA 122; and *Canada (Attorney General) v Lapointe*, 2009 FCA 147.
[34] See *Canada (Attorney General) v Campeau*, 2006 FCA 376 at para 21.
[35] See GD02-36.

[66] So, the manager was the one who requested the meeting because of job performance issues, and the Appellant responded with his concerns and a desire to participate.

[67] While the Appellant's manager said that there were "concerns about [his] performance,"[36] this is not a surprising statement. Given the bulk of the Appellant's evidence, and his own statements, the Appellant was struggling to meet his employer's expectations. This is not evidence that the Appellant was on track to be dismissed, especially since he had been with the company since 2016 without any history of discipline.

[68] The manager told the Commission that "close to the end of his last day worked [he] did send [the Appellant] a meeting request because [he] did want to talk about [the Appellant's] role in the company, but he resigned with in 12 hours so [they] never had a chance to discuss how [the Appellant] was feeling."[37] So, it appears that the manager was concerned about the Appellant's performance and was open to a dialogue about the Appellant's issues.

[69] Furthermore, the accountant that the Commission initially spoke with said that "everyone was quiet shocked and we did not see it coming," when the Appellant quit.[38] So, it was unlikely that the Appellant was about to be fired.

[70] I find that none of the circumstances set out in the law existed when the Appellant quit.

The Appellant had reasonable alternatives

[71] I must now look at whether the Appellant had no reasonable alternative to leaving his job when he did.

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[36] See GD02-36.
[37] See GD03-41.
[38] See GD03-40.

[72] The Appellant says that he had no reasonable alternative because his work environment was intolerable.

[73] The Commission disagrees and says that the Appellant could have discussed his concerns with his manager or senior management, asked for a leave of absence, or looked for another job before resigning.

[74] The Appellant argues that he would not have been granted a leave of absence if he asked for it, so he should not be expected to have done so. However, without asking for one, the Appellant has no way of knowing for certain that he would be denied. If the Appellant was truly suffering from burnout and stress related health issues, he could have asked for a medical leave of absence, which his employer would be obliged to accommodate with proper medical documentation.

[75] So, I find that a reasonable alternative to resigning when he did would be to request a leave of absence.

[76] The Appellant argues that obtaining different work was not reasonable because his work hours meant he couldn't look for work. He testified that looking for employment is a fulltime job in and of itself and he would not be able to do that while working for his employer. He says that he needed to research employers, prepare for interviews, contact placement agencies, and be able to accept interviews at the last minute. He argues that his employer would not have allowed him the time to do this, and if his manager knew he was looking to leave, he would likely be dismissed out of spite.[39]

[77] I don't accept the Appellant's argument. While I do understand that his working hours severely limited his ability to actively seek out work, they did not completely prevent it. His argument that he couldn't start looking for alternative employment because he was worried his employer would dismiss him if they found out is as perplexing as quitting because of a fear of being dismissed. The Appellant had already

[39] See GD07-16 and 17.

made the decision to leave his employer, so his fear of the employer being the one to hasten the process is moot.

[78] The Appellant argues that "remaining in this situation until [he] secured a new job was not feasible, as the ongoing toxic behavior, disrespect for [his] professional responsibilities, and health and safety concerns made it impossible to continue working without jeopardizing [his] professional integrity and well-being."[40] He goes on to say that "[t]he absence of job applications does not negate the validity of the just cause to resign," and "oversimplifies the realities of the engineering job market. Sending out resumes without proper research or preparation could lead to accepting another unsuitable position, worsening [his] situation."

[79] But, there was nothing preventing the Appellant from the bare minimum of updating his resume and submitting it to "head-hunters" and placement agencies looking for engineers. In this situation, the agency assumes the burden of matching the Appellant with potential suitable employers. The Appellant did not even start the process of looking for alternative employment until after he quit.

[80] Furthermore, if the Appellant had asked for a leave of absence because he was overwhelmed, and it was granted, his concerns about having enough time to properly conduct a job search would not apply.

[81] So, I find that the Appellant could have looked for alternative employment before leaving. Not being able to look for work under ideal circumstances is not the same as being wholly unable to.

[82] The Appellant argues that he could not address his concerns with workload, stress, and interpersonal issues with his manager because the company was small and family run. He was convinced nothing would change at best, and felt that repercussions were a real possibility. He submits that his responses to an outside consultant on issues

[40] See GD07-17.

with the company were not addressed or taken seriously as evidence that the employer had no regard or respect for him.

[83] I don't accept the Appellant's position. First off, the Appellant has no way to know what the outside consultant communicated to the employer. It's quite likely that his feedback was anonymous. It is also possible that the Appellant was the only team member feeling overwhelmed and poorly managed. Second, he quit after raising his concerns by email, but before completing a scheduled meeting to discuss matters with his manager. Finally, if the Appellant felt uncomfortable discussing his issues with his manager, he could have reached out to senior management.

[84] The simple fact is that his employer had no idea how unhappy the Appellant was at work. His manager told the Commission that he had never raised any complaints or said that he was overwhelmed, and the accountant who processed payroll said that everyone was shocked and blindsided by his decision to quit.[41] Employers cannot address issues they don't know about. The Appellant cannot justify his refusal to escalate his problems through the chain of command by an assumption of how a conversation might go. If the Appellant was correct in his assumption, then he would have exhausted the reasonable avenue of attempting to address his workplace issues, and would then be able to argue just cause.

[85] There is a high obligation on a claimant to seek solutions to even intolerable conditions before leaving.[42] The obligation is generally on the claimant to attempt to resolve workplace conflicts with an employer, or to demonstrate efforts to seek alternative employment before taking a unilateral decision to quit a job.[43]

[86] The Appellant believes "the Tribunal's focus on sending out resumes and escalating concerns further is too narrow and does not take into account the full context of my situation. The toxic environment, lack of internal support, and risks to my

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[41] See GD03-40 and 41.
[42] See *Green v Canada (Attorney General)*, 2020 FCA 102.
[43] See *Canada (Attorney General) v White*, 2011 FCA 190; *Canada (Attorney General) v Murugaiah*, 2008 FCA 10; *Canada (Attorney General) v Hernandez*, 2007 FCA 320; and *Canada (Attorney General) v Campeau*, 2006 FCA 376.

professional reputation and mental health made staying in the job untenable. My decision to resign was a last resort after all reasonable avenues had been exhausted." He says that, "[t]he law recognizes that just cause for resignation is not limited to exhaustive internal efforts but also considers whether continuing employment is reasonable in the circumstances. In my case, it was not."[44]

[87] The Appellant is mistaken in his interpretation of the law. His position is the inverse of the correct application of the law to voluntary leaving. Just cause specifically requires claimants to **exhaust all reasonable alternatives** prior to leaving. And, the law is clear that the test is not "whether continuing employment is reasonable" but whether continuing the employment relationship is *unreasonable* because *all other reasonable options have been exhausted.*

[88] In this case, the Appellant was obviously deeply unhappy with his employment, but his work situation was certainly not intolerable. The evidence does not show any catastrophic effects if he continued the employment relationship for one more day, or past his scheduled vacation. The Appellant has not met the burden to prove that he had no other reasonable option to quit **when he did**, because he could have gone on his three week vacation first, and made the decision when he returned.

[89] The Courts have emphasized that the EI system exists to insure claimants who have lost their employment through no fault of their own. The very foundations and principles of insurance applies to the application of the EI Act. The insurance offered by the EI system is a function of the risk run by an employee of losing his employment. Almost all of the circumstances listed in section 29 of the EI Act that contribute to just cause for voluntary leaving require the involvement of a third party—in other words, somebody else does something that forces the claimant to quit. Therefore, other than certain exceptions, it is the responsibility of claimants not to create a risk of unemployment, or transform what was only a risk of unemployment into a certainty.[45]

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[44] See GD07-17
[45] See *Canada (Attorney General) v Campeau*, 2006 FCA 376; *Canada (Attorney General) v Côté*, 2006 FCA 219; *Tanguay v Canada (Unemployment Insurance Commission),* 1985 FCA 239; *Canada (Attorney General) v Langlois*, 2008 FCA 18.

[90] Just because the Appellant felt that his job duties were not ideal for his long-term goals doesn't mean he is entitled to be a burden on the EI system. The fact that the Appellant felt his employment is not a good fit doesn't justify him in abandoning it and compelling others to support him through EI benefits.[46]

[91] Ultimately, the legal test is not whether leaving his employment is what a reasonable and prudent person would do in similar circumstances, it is whether leaving employment is the Appellant's only reasonable course of action. Reasonableness may be "good cause," but it is not necessarily "just cause." While the Appellant left his job for what he feels was a good reason, the Courts have clearly held that good cause is different from just cause. It is not sufficient for the Appellant to prove that he was quite reasonable in leaving his employment.[47]

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

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

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[46] See *Canada (Attorney General) v Tremblay*, A-50-94.
[47] 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

[94] The Appellant made a personal choice to leave his job and he had several reasonable alternatives to quitting when he did. While he may have had good personal reasons, that is not the same as just cause under the law.[48] The law generally requires claimants to try to resolve workplace issues or to find alternative employment before quitting.[49]

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

[96] This means that the appeal is dismissed.

Ambrosia Varaschin

Member, General Division – Employment Insurance Section

[48] See *Canada (Attorney General) v White*, 2011 FCA 190; and *Tanguay v Canada (Unemployment Insurance Commission)*, A-1458-84.
[49] See *Canada (Attorney General) v Hernandez*, 2007 FCA 320; *Canada (Attorney General) v Campeau*, 2006 FCA 376; and *Canada (Attorney General) v Murugaiah*, 2008 FCA 10.