



Citation: *SS v Canada Employment Insurance Commission*, 2025 SST 135

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: S. S.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (697999) dated December 10,
2024 (issued by Service Canada)

Tribunal member: Anne S. Clark

Type of hearing: Videoconference

Hearing date: December 27, 2024

Hearing participant: Appellant

Decision date: January 7, 2025

File number: GE-24-4019

Decision

[1] The appeal is dismissed. The Appellant didn't show he had just cause for leaving his job.

[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] On August 16, 2024, the Appellant left his job as a manufacturing engineer, maintenance engineer, and truck safety compliance officer. He said he left because of dangerous working conditions. He 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.

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

[5] The Commission says that, instead of leaving when he did, the Appellant could have refused to do any unsafe work. He also could contact regulatory bodies to address his safety concerns. The Commission also says the Appellant wasn't expected to do dangerous work. He was not an operator and, therefore not required to operate the equipment he felt was dangerous. The employer didn't respond to the Commission's calls. This means there is no evidence from the employer to contradict the Appellant's version of the events leading up to the day he left his job.

[6] The Appellant disagrees with the Commission. He says that he was responsible for the operators who used the equipment. He had concerns about the safety of the operators after the installed safety equipment was removed. If an operator were injured while using machinery without the safety equipment installed on it, he felt the employer

would blame him. He also believed he could be legally liable for any injuries. He didn't explain why he believed that. The Appellant also said he managed the work of the operators. He said he could be required to clean the machinery and perform tests. He could be in danger if that happened before the proper safety curtain is installed.

[7] The Appellant also said the employer changed his job description and duties. That made him responsible for work he wasn't qualified to do. He felt that could be dangerous.

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 August 16, 2024. I see no evidence to contradict this.

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

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

– What the law says about voluntary leaving and showing just cause

[12] The law says that claimants are disqualified from receiving benefits if they left a job voluntarily and didn't have just cause to leave.¹ Having a good reason for leaving a job isn't enough to prove just cause.

¹ Section 30 of the *Employment Insurance Act* (Act) explains this.

[13] 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.²

[14] It is up to the Appellant to prove that he had just cause. He has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that his only reasonable option was to quit.³

[15] 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.⁴

[16] After I decide which circumstances apply to the Appellant, he then has to show that he had no reasonable alternative to leaving at that time.⁵

The circumstances that existed when the Appellant quit

[17] The Appellant says there are two circumstances set out in the law that apply to his decision to quit his job. Specifically, he says that there were significant changes in his work duties and the working conditions were dangerous to health and safety.

– The Appellant didn’t show there were significant changes to his job duties

[18] I find there weren’t significant changes in the Appellant’s job duties that would give him just cause for leaving his job when he did. The changes to his work duties and his job title happened when he was first hired. He said he accepted the job in December 2023 after the employer changed the job title and duties. That means he can’t rely on section 29(c)(ix) of the Act to show he had just cause to leave his job some eight months later. I will explain my reasons.

[19] The Appellant said he was hired as a manufacturing engineer in December 2023. On the day he started work, the employer changed his job title to include the duties of a

² See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

³ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

⁴ See section 29(c) of the Act.

⁵ See section 29(c) of the Act.

maintenance engineer. The Appellant didn't say he took issue with the change at the time. He accepted the job and started work with the new job title. He worked in that position until August 2024.

[20] The Appellant said the change in job duties was significant since he was not certified for some of the duties under his responsibility. He didn't offer any evidence about those changes or what steps he took to address them. He said his job duties varied after he was hired. He felt there could be safety issues if problems came up and he wasn't trained to handle them. He implied there may have been changes closer to the time when he quit but he couldn't tell me what they were or offer evidence about them.

[21] The Appellant also said he was a truck safety and compliance officer for the company. He didn't offer any evidence to show when or if those job duties changed. He also gave no evidence to suggest his job duties as the truck safety and compliance officer were dangerous to his health and safety.

– **The Appellant didn't show how his job was dangerous to his health and safety**

[22] The Appellant explained that the employer installed a new piece of machinery. The installer also installed a safety "curtain". I understand the curtain would prevent operators from putting their hands in the machine while it was operating. The employer found the curtain interfered with the operation and decided to remove it until the supplier could provide a replacement.

[23] The Appellant understood the curtain was essential to the safety of operators. The employer instructed the Appellant to remove the curtain. The Appellant met with his supervisor and the occupational health and safety officer to discuss his concerns. He said he told them the curtain was necessary for safety and he refused to remove it. The Appellant told me the employer had someone else remove the safety curtain.

[24] Over the next two days the employer told the Appellant to remove the curtain. The Appellant refused and quit his job. He said he felt he was or could be liable for any injuries resulting from the unsafe operation of the equipment.

[25] The Appellant said he also informed other employees of their right to refuse unsafe work. He said he told some employees they should also quit.⁶

[26] The Appellant did not argue that his personal health and safety was at risk. I asked him to describe the risk to him. He said there would be a risk if he used the machine before the proper curtain was installed. Otherwise the risk was that he would be responsible for injuries to operators.

[27] The Appellant said he was overwhelmed by what he saw as a serious safety infraction. He probably should have done something, but he didn't think about contacting a regulatory body until October or November.

[28] The circumstances that existed when the Appellant quit were as follows:

- His job duties changed when he was first hired. There is no evidence they changed significantly around the time he quit.
- He was not an operator. But he feels he might have had to operate the equipment to test or clean it in the future. He did not say when or if that would happen.
- He spoke to his supervisor and safety office at the same time. He has no record of the discussion or the outcome. He said he talked to one of them a second time before he left. He said they "agreed to disagree".
- He did not contact any regulatory bodies until months after he quit. He sent a Workplace Incident Report on October 15, 2024.⁷ Just recently he contacted the Labour Board.

[29] The Appellant also argued that the employer violated the Canadian Criminal Code; the Occupational Health and Safety Act; and provincial labour laws. I explained to him that the Tribunal is created by legislation. It only has the powers granted to it by its

⁶ The Appellant said this in his testimony and in his application at page GD3-10.

⁷ See GD2-7.

governing statute. This means my authority is limited to interpreting and applying the provisions as they appear in the Act and its regulations.

[30] If there is evidence that an employer's actions were unlawful I can consider whether that contributed to the claimant's decision to leave a job. However, I can't decide the Appellant's complaints under other legislation. The Appellant presented photographs of the machine as evidence that it was unsafe. There is no evidence before me to show the employer's actions were unlawful. The Appellant said he believes the employer committed unlawful acts when it removed the safety curtain. I considered the Appellant's evidence and his belief that the employer's actions violated other laws. But he will have to pursue his allegations that the employer's actions were unlawful with the regulatory body with authority under those laws.

The Appellant had reasonable alternatives to quitting

[31] I must now look at whether the Appellant had reasonable alternatives to leaving his job when he did. There were reasonable alternatives. The Appellant said he took alternative steps, but not before he quit.

[32] The Appellant says that he had no reasonable alternative to leaving his job because he tried to persuade his employer to leave the equipment as installed. He was not successful, so he felt he had to quit to protect himself from legal liability. He couldn't think of an alternative at the time.

[33] The Commission argued the Appellant's concern about legal liability didn't show his working conditions were dangerous to his health and safety. I asked the Appellant to explain his concerns in light of the Commission's submissions. The Appellant stressed that he was not an operator but was responsible for the safety of the operators. For him that meant he had to quit his job to avoid liability.

[34] The Commission also said that the Appellant could have contacted regulatory authorities who are responsible for workplace safety. It is difficult to accept the Appellant's position that he couldn't think of an alternative until months after he quit. This is particularly hard to understand since he is a compliance and safety officer. He

was aware of safety rules. As such I would expect him to be able to get information about safety rules and processes. He said he advised other employees about their rights to refuse unsafe work. He refused to remove the safety curtain himself. But, he said the focus for him was on his potential liability. His testimony was that he didn't consider contacting external safety authorities until well after he left his job.

[35] I find that the Appellant voluntarily left his employment. When he left his job he made one effort to contact his supervisor and safety officer to explain his concerns. He didn't make any efforts to report what he described as serious safety infractions until two or more months after he left his job.

[36] The Appellant talked about opportunities for other employment. He said he felt there were job opportunities for him. But he didn't want to stay at work while he looked for another job. He didn't explain why he felt it would be unreasonable to look for another job before he quit. The Appellant didn't consider a leave of absence instead of quitting.

[37] The Appellant had reasonable alternatives to leaving his job when he did. As he told others, he could have refused to operate the machine without the safety features. He counselled others about refusing unsafe work. He could have reported his complaints to a regulatory body who had the authority to address his concerns. He could have explored other job opportunities or ask for a leave of absence. He didn't exhaust all reasonable alternatives before he left.

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

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

Conclusion

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

[41] This means that the appeal is dismissed.

Anne S. Clark

Member, General Division – Employment Insurance Section