Citation: *NT v Canada Employment Insurance Commission*, 2025 SST 232

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	N. T.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (705640) dated February 4, 2025 (issued by Service Canada)

Tribunal member:	Adam Picotte
Type of hearing:	Teleconference
Hearing date:	February 26, 2025
Hearing participants:	Appellant
Decision date:	February 27, 2025
File number:	GE-25-442

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 left her job on October 9, 2024, and applied for EI benefits. The Canada Employment Insurance Commission (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 it wasn't able to pay her benefits.

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

[5] The Commission says that, instead of leaving when she did, the Appellant could have done the following:

- Spoken to her manager about the lack of sanitary bathroom conditions;
- Contacted WorkSafe New Brunswick;
- Contacted the regional department of health; and
- Continued working while she sought alternate employment.

[6] The Appellant disagrees and says that these options were either not available to her or she has fully engaged in them. The Appellant says that when she was hired, she did not have an opportunity to see the washroom facilities. But once she started to work, realized they were unhygienic. The toilets and sinks omitted brown water due to hard chemicals. The washroom facilities were also poorly kept such that the toilet seats had brown markings on them.

[7] Because the Appellant was a new employer, she felt there was a power imbalance that made her unable to ask for changes to the workplace. She also doubted WorkSafe or the department of health would be able to assist.

Issue

[8] Is the Appellant disqualified from receiving benefits because she voluntarily left her 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 her job. The Appellant agrees that she quit on October 9, 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 her job when she 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.

[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]

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[1] Section 30 of the *Employment Insurance Act* (Act) explains this.
[2] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

[14] 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.[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, she then has to show that she had no reasonable alternative to leaving at that time.[5]

The circumstances that existed when the Appellant quit

[17] The Appellant says that one of the circumstances set out in the law applies. Specifically, she says that there were working conditions that constitute a danger to health or safety.

[18] The circumstance that existed when the Appellant quit was an unhygienic washroom. I accept that this was a working condition that constituted a danger to health and safety. Washrooms need to be available and used by workers. The fact that the Employer's washroom was left in an unsanitary state posed a potential safety issue to the Appellant.

The Appellant had reasonable alternatives

[19] I must now look at whether the Appellant had no reasonable alternative to leaving her job when she did.

[20] The Commission says that the Appellant could have done the following:

- Contacted the department of health about the state of the washroom;

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[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.

- Contacted WorkSafe New Brunswick about the issue as an occupational health and safety matter;

- Spoken to her manager about the state of the washrooms; or

- Obtained alternate employment before having quit.

[21] The Appellant says that she had no reasonable alternative because of the following:

- The department of health would not take an interest in the matter because the company is not a hospital; clinic; or restaurant. As a result, it would not have been a reasonable request;

- The Employer was a small entity and as such, it was unlikely it was registered with WorkSafe New Brunswick. Therefore this would not have done anything;

- The power dynamic between her and her manager would have resulted in him either terminating her or requiring her to clean the washroom, if she had brought the issue up; and

- The Appellant has continued to apply for alternate employment throughout her brief employment and has not yet been successful in obtaining any employment.

[22] I find that the Appellant had alternatives available. Specifically, she could have contacted either the department of health or WorkSafe New Brunswick. She could also have requested that the employer clean the washroom to make it more hygienic. I am satisfied that the power dynamics in the employer/employee relationship precluded the Appellant from speaking with the employer in these circumstances. I am also satisfied that the Appellant has continued to look for alternative employment, since prior to obtaining employment with this employer.

[23] It may be that neither the New Brunswick department of health nor WorkSafe New Brunswick would have taken action against the employer for the poor sanitary state of its washroom facility. However, it was incumbent upon the Appellant to take all

reasonable steps. By simply presuming that neither would act and then not contacting either organization to inquire if this was so, she left reasonable alternatives unexplored.

[24] When an Appellant voluntarily leaves her employment, the burden is on the Appellant to prove that there was no reasonable alternative to leaving when she did.[6] That did not happen here. There were still reasonable alternatives available to the Appellant that she did not sufficiently explore prior to terminating her employment.

[25] Because she did not explore these alternatives, she has not met the test for just cause under the Employment Insurance Act.

[26] 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.

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

Conclusion

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

[29] This means that the appeal is allowed.

Adam Picotte
Member, General Division – Employment Insurance Section

[6] *Canada (AG) v. White*, 2011 FCA 190