Citation: *LW v Canada Employment Insurance Commission*, 2025 SST 293

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	L. W.
Representative:	V. S.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (669069) dated June 18, 2024 (issued by Service Canada)

Tribunal member:	Adam Picotte
Type of hearing:	Teleconference
Hearing date:	February 12, 2025
Hearing participants:	Appellant Appellant's representative
Decision date:	February 20, 2025
File number:	GE-24-2729

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 25, 2023, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) initially allowed her claim for benefits. This happened because the Appellant had two positions that ended in and around the same time. The first position was seasonal and ended on October 24, 2023. The second position was a permanent position that she left. In her application, the Appellant inadvertently left out her employment with her permanent position. Subsequently, the Commission received a record of employment from the permanent employer. This resulted in a review of the file and decision to disqualify the Appellant from receipt of benefits. The Commission 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 must decide whether the Appellant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says that the Appellant could have maintained her employment while she sought alternative employment.

[6] The Appellant disagrees and states that her work was not employment as she was not provided with sufficient hours to survive. She further states that she did not receive a living wage. The Appellant's representative also stated that 10 hours a week, this is what the Appellant worked, does not qualify as employment. The Appellant's representative also stated that the total number hours worked by the Appellant also does not qualify as employment.

[7] I understood the argument being that because this does not qualify as employment, the Commission was incorrect in relying on this in disqualifying the Appellant from receipt of benefits.

[8] Finally, the Appellant says she left as she had applied to and was planning to return to school.

Matter I have to consider first

Charter Challenge

[9] A decision on the requested Charter challenge was rendered on January 16, 2025. The Appellant was provided with instructions she could follow in the event she wished to appeal that decision. Though the representative shared his dissatisfaction with the outcome, this hearing was not the proper forum to address this matter.

The Appellant's employment

[10] As I noted above, the Appellant and her representative argued that the Commission should not have considered her permanent employment as it cannot qualify as employment. This is incorrect. I will now explain why. The Appellant asserts that her hours were too minimal to be considered employment. However, the EI Act does not specify a threshold to qualify as employment. The EI Act allocates all earnings. It details that Earnings payable under a contract of employment for the performance of services are allocated to the period when services are performed.[1] The EI Act also defines "Employment" as the act of employing or the state of being employed.[2] Hence, the Appellant was in the state of being employed. The definition is not dependent on the hours worked at the job. Her job was also insurable as defined under the EI Act.[3]

[1] Section 36(4) of the *EI Regulations*
[2] See Section 2 of the *EI Act*
[3] See Section 5 of the *EI Act*

Issue

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

[12] 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

[13] I accept that the Appellant voluntarily left her job. The Appellant agrees that she quit on October 25, 2023. I see no evidence to contradict this.

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

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

[15] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.[4] Having a good reason for leaving a job isn't enough to prove just cause.

[16] 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.[5]

[17] It is up to the Appellant to prove that she had just cause.[6] 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. When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit.

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

[18] The Appellant says that she left her job because she did not receive a living wage and could not support herself on 10 hours a week. The Appellant says that she had no reasonable alternative to leaving at that time because she did not make enough money. The Appellant also says that she intended to go to school and left for that reason.

[19] The Commission says that the Appellant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says that the Appellant could have continued working with her permanent employer until she obtained a new role that afforded her more hours.

The Appellant's argument that she left her employment to pursue schooling is incorrect

[20] The Appellant also stated in her application that she left her permanent employment to return to school. However, during the hearing, the Appellant told me that she had applied to school prior to quitting her permanent employment. She quit on October 25, 2023, and did not apply for schooling until December 2023. As such, I am not satisfied that she had formed her intention to return to school at the time she left her employment. Even if she had applied prior to leaving her employment, leaving one's job to attend a course of instruction that is not authorized by the Commission does not constitute just cause.[7]

The Appellant argued that her father could support her

[21] During the hearing, the Appellant argued that her father could support her and as a result, she felt she was in a position to leave her employment. However, this does not amount to just cause.

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[7] (*Canada (Attorney General)* v *Trochimchuk*, 2011 FCA 268 para. 2 ; *Canada (AttorneyGeneral)* v *Caron*,2007 FCA 204 para. 1)

The Appellant had alternative options to quitting

[22] I find that the Appellant had alternative options to quitting when she did. She could have maintained her employment and applied for other employment until something with additional hours had been secured. I note that the Appellant had been employed with her permanent employer since May 2023. Her temporary role did not start until the summer of 2023. She was able to actively look for additional work prior to October 2023, there would have been nothing to preclude her from doing so after as well. I am not satisfied that the Appellant did not have reasonable alternatives to quitting her employment when she did.

[23] I accept that her hours were not sufficient to support her and that her permanent role did not provide her with enough earnings to support her. This was not an economically viable situation for her. Regardless, she had a reasonable alternative to quitting her employment. She could have maintained the employment and done a job search in the interim. The fact she did not is fatal to her application.

[24] The Courts have established that appellants have an obligation to demonstrate efforts to seek alternative employment before leaving their employment.[8] Moreover, in the context of the EI scheme it is the appellant's responsibility not to transform a risk of unemployment into a certainty.[9]

Conclusion

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

[26] This means that the appeal is dismissed.

Adam Picotte

Member, General Division – Employment Insurance Section

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[8] Canada (Attorney General) v White, 2011 FCA 190, para. 5

[9] (*Canada (Attorney General)* v *Langlois*,2008 FCA 18 para. 32; *Tanguay*v *Unemployment Insurance Commission*,1458-84