



Citation: *BB v Canada Employment Insurance Commission*, 2024 SST 1721

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: B. B.
Representative: R. B.
Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (659484) dated April 25, 2024
(issued by Service Canada)

Tribunal member: Susan Stapleton
Type of hearing: In person
Hearing date: June 19, 2024
Hearing participant: Appellant
Appellant's representative
Decision date: July 22, 2024
File number: GE-24-1758

Decision

[1] The appeal is allowed.

[2] The Appellant has shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Appellant had just cause because she had no reasonable alternative to leaving. This means she is not disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant left her job in Ontario on January 5, 2024. She moved to Nova Scotia with her parents on January 16, 2024. She applied for EI benefits on February 5, 2024.

[4] 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.

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

[6] The Commission says the Appellant didn't have to move with her parents to provide care for them. It says she made a personal choice to move. It says that instead of leaving her job when she did, the Appellant could have rented her own accommodations in Ontario, even if only temporarily until she found a job in Nova Scotia. It says she could have started looking for work in Nova Scotia sooner than in October 2023, because she knew for two years that her parents would be moving.¹

[7] The Appellant disagrees. She says it wasn't financially feasible for her to stay in Ontario. Her parents have minor to severe mobility problems, and they would be best

¹ See GD4-5-6.

served with her presence in Nova Scotia. She says her father decided it was best for her to move to Nova Scotia.²

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. She agrees that she quit on January 5, 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.³ 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.⁴

² See GD2-5.

³ Section 30 of the *Employment Insurance Act* (Act) explains this.

⁴ 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.⁵

[15] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when she quit. The law sets out some of the circumstances I have to look at.⁶

[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.⁷

The circumstances that existed when the Appellant quit

[17] The Appellant says that two of the circumstances set out in the law apply in her case. Specifically, she says that one of the reasons she quit her job was to move to Nova Scotia with her parents, who have mobility issues.⁸ She also says she had reasonable assurance of a job in Nova Scotia.⁹

Obligation to care for a member of the immediate family

[18] The law says that a claimant who has an obligation to care for an immediate family member has just cause for leaving if they had no reasonable alternative but to quit.¹⁰

[19] I find that the Appellant didn't have an obligation to care for her parents at the time when she quit her job.

[20] The Commission says the Appellant's decision to move with her parents was a personal one. It says that while the Appellant said that her parents had mobility issues and required her presence, she later said that she didn't feel comfortable with them living alone

⁵ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

⁶ See section 29(c) of the Act.

⁷ See section 29(c) of the Act.

⁸ See GD2-5.

⁹ See section 29(c)(vi)

¹⁰ See section 29(c)(v) of the Act.

in such a rural area, which suggested more of a personal choice to accompany them, rather than a necessity. The Appellant reported looking for an apartment in Ontario to rent after her parents moved, which the Commission says shows that she didn't have to move with her parents to care for them. It says that while the Appellant may feel that following her parents was the best financial and moral decision for her to make at the time, this doesn't constitute just cause for quitting her job.¹¹

[21] The Appellant says her parents needed her to live with them at their new home in Nova Scotia. Her parents both have minor to severe mobility problems, and they are best served with her presence. Her father decided it was best if she moved with them.¹²

[22] In her application for benefits, the Appellant said she quit her job to follow her parents to a new residence. She said her parents both have mobility issues and difficulty with stairs and heavy lifting. She said her mother has tremors and asthma, and her father has no cartilage in his knees, which makes it very hard for him to walk. She said she didn't feel comfortable with her parents living alone in a rural area, away from family, in case of an emergency.¹³

[23] The Appellant told the Commission that when her parents lived in Ontario, they had help from other family members. But when they retired and moved to Nova Scotia, someone had to be with them. None of her family members could move with her parents, due to their occupations and families. Her parents couldn't afford professional help.¹⁴

[24] During the reconsideration process, the Appellant told the Commission that her parents bought their new home in Nova Scotia in 2022. They had to move into the house in January of 2024, or they were going to have to pay a lot of taxes. She looked for a place to live in Ontario before her parents moved, but she couldn't afford to live in Ontario on her own. So, she had no choice but to move with her parents. The Appellant

¹¹ See GD4-4-5.

¹² See GD2-5.

¹³ See GD3-8.

¹⁴ See GD3-25.

said that her parents were able to care for themselves, but she didn't want them to be alone.¹⁵

[25] The Appellant's father, who is also her representative, submitted a letter in support of her appeal. He wrote that it would have been too expensive for the Appellant to stay behind in Ontario and rent an apartment there. He said that he and his wife enjoy the comfort of having a level of home care and support from their daughter, and looking at the future, they decided it was best that the Appellant move with them. He said that financially and morally, the Appellant had no choice but to move with them. He added that shortly after moving, he had a heart attack, and his wife needed the Appellant's support. He said that he and the Appellant had paid in to EI for many years, but his and his daughter's claims were both rejected because of a choice he made on her behalf.¹⁶

[26] The Appellant testified that she has always lived with her parents and helped them out, so they have never had to hire anyone to help them at home. She didn't want her parents to have to pay someone to do work she could do for them. Her parents don't require personal care, but they need help with heavier household tasks. Her father has physical limitations, and can't get on the floor, or up on ladders, and he can't lift heavy things. Her mother has difficulty walking long distances and standing for long or periods of time, and she has started developing tremors. She wasn't comfortable with them moving across the country to a rural area. She feared one of them would fall or be injured, and there would be nobody to help them, because their family all live in other provinces. If something did happen, she wouldn't be able to afford to drop her life in Ontario, and go to Nova Scotia to help them. Since she couldn't afford to stay on her own in Ontario, and her parents needed her help, it was best for her to move with them.

[27] I find that the Appellant didn't leave her job because she had an obligation to care for her parents. She told the Commission that her parents were able to care for themselves, but she didn't want them to be alone. She testified that her parents don't

¹⁵ See GD3-30.

¹⁶ See GD2-10.

require personal care, but they need help with heavier household tasks, and she didn't want them to have to pay someone to do work she could do for them. The Appellant's father said he made the decision that the Appellant would move to Nova Scotia. He said he and his wife enjoyed a certain level of home care and support, and the Appellant had a moral obligation to live with them and help them as needed. He said that morally and financially, the Appellant had no choice but to move with them.

[28] I recognize that the Appellant wanted to be there to support and help her parents at their new home in Nova Scotia, but her personal feelings are not the same as an obligation. In addition, the Appellant looked into renting an apartment in Ontario after her parents moved to Nova Scotia, which doesn't support a conclusion that she had an obligation to care for her parents. If she had such an obligation, I find it unlikely that she would have considered staying behind in Ontario after her parents moved to Nova Scotia.

[29] As there is no evidence before me that the Appellant was obligated to care for an immediate family member, I find that section 29(c)(v) of the Act does not apply in this case.

Reasonable assurance of another employment in the immediate future

[30] The law says that a claimant who has a reasonable assurance of another employment in the immediate future has just cause for leaving if she had no reasonable alternative but to quit.¹⁷

[31] The Appellant's representative testified that he and his wife had visited Nova Scotia a couple of times, and they looked at the employment situation there. They saw ads for work at Tim's, Subway, a fishing warehouse, and gas stations in the community they were moving to, and they felt confident there was work there that the Appellant

¹⁷ See section 29(c)(vi) of the Act.

could do. They were sure the Appellant would find a job as soon as they arrived in Nova Scotia.

[32] The Appellant testified that she asked her employer about a transfer to a position in Nova Scotia, but there were no positions in Nova Scotia for her to transfer to. She said she didn't go to Nova Scotia with her parents to scope out potential work, but she felt assured through her parents' research, and her own research, that she would be able to get a job right away.

[33] To show that she had a reasonable assurance of another employment in the immediate future, within the meaning of the *Act*, the Appellant must show three things:

1. when she quit, she had to know she would have another job;
2. she had to know what that job would be; and
3. she had to know when in the future that job would start.¹⁸

[34] At the time when she quit, the Appellant didn't know that she would have another job, what the job would be, and when it would start. She and her parents believed she would find a job as soon as they arrived in Nova Scotia. However, this is not enough to show that the Appellant had a reasonable assurance of another employment in the immediate future.

[35] I therefore find that section 29(c)(vi) of the *Act* does not apply in this case.

[36] So, the circumstances that existed when the Appellant quit her job were that she lived with her parents, and her parents were moving to Nova Scotia. While her parents didn't require personal care, they had health issues, and she didn't want them to have to pay someone to help with heavier household tasks. She couldn't find affordable accommodations, so she couldn't stay behind in Ontario when her parents moved.

¹⁸ See *Canada (Attorney General) v Bordage*, 2005 FCA 155.

Morally and financially, she felt she had no choice but to move to Nova Scotia with her parents.

The Appellant had no reasonable alternative

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

[38] The Appellant says that she had no reasonable alternative, because her parents were moving to Nova Scotia. They have health issues and she needed her help with heavier household tasks, and to support them when needed. She couldn't afford to stay behind in Ontario and rent her own accommodations.

[39] The Commission disagrees and says that the Appellant could have looked for her own accommodations in Ontario, even if only temporarily until she was able to secure employment in Nova Scotia. The Appellant's parents bought their house in Nova Scotia in 2022 and planned to move when they retired, but the Appellant only started looking for accommodations in Ontario, and potential employment opportunities in Nova Scotia, in October 2023. It says that the Appellant could have started her search earlier.

Staying in Ontario

[40] The Commission says it conducted a search for rental properties in and around X, Ontario, where the Appellant had lived with her parents. It says the search returned 8 properties that were under \$1100 in rent and 18 properties that were under \$1200 in rent.¹⁹

[41] The Appellant's representative submitted the listing descriptions for the rental properties submitted by the Commission, showing that they were all shared student accommodations, and located in X.²⁰ He argued at the hearing that even though the map in the Commission's file showed X, he investigated all 18 of the rental listings that the Commission provided, and every one of them was actually in X, which is about 72

¹⁹ See GD3-32-33.

²⁰ See GD6.

kilometres from the Appellant's job location.²¹ It would take an hour to drive from X to her job, whereas it was only 21 kilometres away from where she lived with her parents.²² Public transportation would take her 3 hours to get to work.

[42] The Appellant testified that she looked for months for apartments in the area around her work, but nothing was in her price range. She said that rental prices had skyrocketed since she started her job with the employer. The only way she could have afforded to rent her own apartment was if she got a roommate. She tried to find a roommate, without success. She said all she could see for rentals that would have been affordable for her was student housing, where she would have to move out at the end of the school year. Also, she's not a student. She said the rentals the Commission referred to were all shared accommodation for students. She says if the Commission had done their work, they would have realized the listings were for student housing, and they were located in X.

[43] The Appellant's representative argued that the Commission didn't do its research. He said it's all over the news that everyone is being affected with rents skyrocketing and people being kicked out of existing rental units. He said he and his wife moved to Nova Scotia because it was too expensive to live in Ontario, and questioned how the Appellant could be expected to afford to live there on her own.

[44] The Appellant's representative submitted that the average rental cost for a one-bedroom apartment, in the area of Burlington where the Appellant worked, would have actually been around \$2,200 a month. This would represent \$26,400 per year. Her gross income is only \$45,214, so housing would cost 58% of her income. Allowing for income tax etc., the Appellant would have less than \$4000 a year (\$330 per month) for food and transportation etc.²³

[45] The Commission provided Supplementary Representations. It says it conducted a search for apartment rentals within a 50-kilometre radius of where the Appellant lived with

²¹ See GD6-25.

²² See GD6-7.

²³ See GD2-10.

her parents, which included X. It says the Commission expects that claimants are willing to make a reasonable commute to work, and while what is “reasonable” is not explicitly defined, the Commission tries to factor in what would be considered a normal commute for any given area. It says the Appellant’s usual commute time was 34 minutes and if she had rented a place in X, the commute time would then be 59 minutes. It argues that while this is “certainly not ideal,” the Commission wouldn’t consider this commute to be unreasonable.²⁴ The Commission also provided some listings for property rentals in the X, Ontario area.²⁵ It says that although almost all of the listings were for parking lots or accommodations that are charging \$1 per square foot, the search results suggest that there were, and continue to be, options available if one is looking for them.²⁶

[46] The Appellant’s representative submitted that the properties referred to by the Commission in its Supplementary Representations also appeared to be shared student accommodations. He submitted that the average cost of a one-bedroom apartment, according to a market update by rentals.ca, was \$1,881 in X, and \$1,901 in X. He argues that the Commission didn’t look at the big picture. He says that a shared accommodation with a bedroom is not the same as an apartment, and while it may be adequate short-term for a student, it isn’t suitable for a mature female.²⁷

[47] I asked the Appellant at the hearing whether she had family or friends she could have stayed with in Ontario, even if only temporarily until she found a job in Nova Scotia. She said she had asked friends and family, but her brother lives too far away and has a houseful of children. Her other family members lived too far away, and her friends couldn’t help her even on a short-term basis. She said there was nowhere she could stay, even temporarily, adding that some of her friends have had to move back in with their parents because the cost of living in Ontario “has gone insane.”

[48] I find that renting her own accommodations in Ontario until she could find a job in Nova Scotia wasn’t a reasonable alternative for the Appellant. My review of the rental information with respect to the areas in which the Appellant lived and worked, leads me to

²⁴ See GD7-1.

²⁵ See GD7A.

²⁶ See GD7.

²⁷ See GD8.

conclude that most, if not all, of the listings were for shared student accommodations or shared accommodations with males. I agree that these were not acceptable rental options for the Appellant. The Appellant testified that she is in her thirties and is not a student. Although the Commission argues that options were available if one were looking for them, I see no evidence that tells me that renting her own accommodations was an option that the Appellant could afford if she had stayed in Ontario until she found a job in Nova Scotia. I also found the Appellant's testimony that she looked for a roommate and asked family and friends if she could stay with them until she found a job in Nova Scotia, to be credible. This is because she gave her evidence directly to me under affirmation, in a forthright and consistent manner, and her testimony was consistent with what she told the Commission.

Looking for work in Nova Scotia

[49] There are many cases from the court imposing an obligation on EI claimants to seek alternative employment, before making a unilateral decision to quit a job.²⁸

[50] The Commission submits that the Appellant's parents had bought a house in Nova Scotia two years prior to their move, and clearly had a plan in place to move once they retired. It says this gave the Appellant ample opportunity to look for potential employment opportunities in Nova Scotia, and yet according to the Appellant, she didn't begin her search until October 2023.²⁹

[51] The Appellant testified that she applied for jobs in Nova Scotia before she quit her job, but she didn't hear back from the employers she applied to. But she still felt assured based on her parents' research, and her own, that she would be able to find a job as soon as they moved to Nova Scotia. It turned out that it took her six months to find work once she arrived in Nova Scotia, which she didn't expect.

[52] The Appellant testified that she looked into apartment rentals in Ontario for months, because she had a good job with the employer. She would have stayed in Ontario if it had been financially feasible for her to do so, although she was very anxious about the idea of her parents living alone in Nova Scotia. However, rents had

²⁸ Consider the analysis in *White, supra*.

²⁹ See GD4-6.

skyrocketed in her area, and the accommodations within her price range were shared student accommodations. Moving with her parents would give her the security of not ending up homeless, and it would give her parents the security of being cared for. So, she made the decision on October 2023 to move to Nova Scotia with her parents.

[53] I find that given the circumstances described by the Appellant, it was reasonable that she started looking for work in Nova Scotia in October 2023. Before that, she was looking into staying in Ontario when her parents moved. When she realized that she couldn't afford to stay in Ontario and rent her own accommodations, she made the decision to move with her parents, and she started looking for work in Nova Scotia.

[54] While a claimant has an obligation in most cases to show that she looked for another job before quitting, there is no obligation to secure alternate employment. I find that the Appellant exhausted the reasonable alternative of looking for another job before quitting, because I accept her testimony that she searched and applied for jobs in Nova Scotia before she quit her job.

[55] The Commission says that it ruled out the possibility of a transfer to a location closer to the Appellant's new residence as a reasonable alternative.³⁰ I asked the Appellant at the hearing whether it would have been an option for her to transfer. She said she asked the employer about transferring, and it said there was no work with the company for her in Nova Scotia. I agree that transferring to a position with the employer in Nova Scotia wasn't a reasonable alternative for the Appellant.

[56] Considering all of the circumstances that existed at the time the Appellant quit, I find that she had no reasonable alternative to leaving her job when she did. She had lived with her parents her whole life, and they were moving to another province. She couldn't find accommodations in Ontario that she could afford if she stayed behind. She couldn't find a roommate, and she couldn't stay with family members or friends. She had no alternative but to quit her job and move with her parents to Nova Scotia. This means the Appellant had just cause for leaving her job.

³⁰ See GD4-5.

Conclusion

[57] The Appellant has shown that she had just cause for leaving her job when she did, because she had no reasonable alternative to leaving her job. She is therefore not disqualified from receiving benefits.

[58] This means that the appeal is allowed.

Susan Stapleton

Member, General Division – Employment Insurance Section