



Citation: *SM v Canada Employment Insurance Commission*, 2024 SST 1731

**Social Security Tribunal of Canada**  
**General Division – Employment Insurance Section**

## **Decision**

**Appellant:** S. M.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (674800) dated August 6, 2024  
(issued by Service Canada)

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**Tribunal member:** Paula Turtle

**Type of hearing:** In person

**Hearing date:** October 2, 2024

**Hearing participant:** Appellant

**Decision date:** October 8, 2024

**File number:** GE-24-2781

## Decision

[1] The appeal is allowed. The Tribunal agrees with the Appellant.

[2] The Appellant has shown just cause (in other words, a reason the law accepts) for leaving his job when he did. He gave three reasons for why he left his job. The Appellant had reasonable alternatives to leaving to deal with two of his concerns. But for the most important concern he had, there was no reasonable alternative to him leaving when he did. This means he isn't disqualified from receiving Employment Insurance (EI) benefits.

## Overview

[3] The Appellant left his job on April 22, 2024, 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.

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

[5] The Appellant says his supervisor harassed him. And he says his workplace was unsafe. At the hearing, the Appellant told me that on the day before he quit, his supervisor told him he couldn't have time off to go to the passport office.

[6] The Commission says that the Appellant could have spoken to outside authorities or higher management about the harassment. And he could have complained to the Ministry of Labour about the safety issues. The Commission didn't say anything about the time off to go to the passport office because that came up for the first time at the hearing.

## Issue

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

[8] 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**

[9] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit on April 22, 2024. I see no evidence to contradict this.

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

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

[11] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[12] 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.<sup>2</sup>

[13] It is up to the Appellant to prove that he had just cause.<sup>3</sup> 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. When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit.

[14] The Appellant says that he left his job because his employer didn't value him. The supervisor demeaned him by yelling at him. The workplace was unsafe. And the

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<sup>1</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

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

<sup>3</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

supervisor told him things weren't going to get fixed. And finally, when he asked for time off so he could get his passport, his employer said no.

[15] The Commission says that the Appellant didn't have just cause, because he had reasonable alternatives to leaving when he did. Specifically, it says that the Appellant could have complained to authorities higher up about the harassment and the safety issues.<sup>4</sup>

### **The circumstances that existed when the Appellant left**

#### **– The parties' credibility**

[16] I will take a moment here to discuss the parties' credibility in this case. The Appellant and the employer disagree about some important issues. I heard directly from the Appellant. I found his description of the events that led to his decision to quit to be logical, internally consistent, and reasonable. He didn't exaggerate his story. He admitted to some things that weren't favourable for him.

[17] Service Canada spoke with employer representatives and employees. They described things differently than the Appellant.

[18] Both versions of events can't be correct. I found the Appellant's evidence generally to be credible for the reasons listed in paragraph above. So, where the employer's version of events differs from the Appellant's evidence, I prefer the Appellant's evidence. I discuss some of the specifics of my credibility findings below.

#### **– The circumstances that existed when the Appellant left**

[19] The Appellant started working for the employer in August 2023. The Record of Employment says the Appellant's first day worked was December 18, 2023. He says that's not correct. He started working in August and he served a probationary period.

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<sup>4</sup> The Commission didn't make submissions about the passport issue because it was raised for the first time at the hearing. The Appellant didn't talk about it to Service Canada before his appeal.

[20] The Appellant was a machine operator. He operated a machine to create customized belts for customers. The operator feeds a belt into the machine with his hand, and a drill comes down to punch the belt. This is called cogging a belt.

[21] The Appellant used three machines. One of the machines has a safety light. This is a beam that stops the machine from operating if a worker's fingers extend past the light. But two of the machines don't have safety lights. So, if a worker is tired, or not paying attention, their fingers might extend into the space where the drill comes down. The drill could cut their finger, or worse.

[22] In December 2023, the Appellant was using one of the machines that doesn't have a safety light. He cut his finger badly.

[23] He complained to his supervisor. He said the safety light is an important safety device. And that all the machines should have a safety light.

[24] The supervisor didn't disagree with the Appellant's safety concern. But he said he worked there 20 years and had talked to the owners many times. It costs money to fix the machines. He told the Appellant there was nothing he can do. He told the Appellant he should just try to be safe.

[25] The Appellant complained to the supervisor about safety again that month. There were electrical wires hanging out of one of the machines. And there was water in the area. The supervisor didn't challenge the Appellant's concerns about safety. But he said he reported it, and he was waiting for it to be fixed. He said it's just his job to report things, and it's up to the owners to do something about it.

[26] After his complaints, the Appellant's concerns weren't addressed. He kept working. He tried to be safe. He still cut himself occasionally. He wasn't given gloves or goggles.

[27] Then, around the middle of March 2024, the employer did something else that concerned him. They put a door on the area where the Appellant worked. When the door was closed, you wouldn't know the Appellant was working in there.

[28] Around this time, some important customers from Australia and the United States were visiting the plant. The supervisor told the Appellant to keep the door locked when visitors were in the plant.

[29] The Appellant told his supervisor he thought this was dangerous. The door was the only exit from the room. If there was a fire on the other side, he might not know about it. The supervisor said he should just try to be safe.

[30] The Appellant has worked for employers who take safety seriously. They have proper training. And if a machine is unsafe, you report it, and it gets fixed right away.

[31] The employer's representatives told Service Canada there weren't any safety issues at the plant. Some employees told Service Canada the Appellant didn't injure his fingers.

[32] The Appellant's safety concerns were validated in June 2024. The Ministry of Labour inspected the workplace and found many violations of the Occupational Health and Safety Act.<sup>5</sup> The Commission agrees that the orders show that there were safety issues at the workplace.<sup>6</sup> It is reasonable to assume that most or all of the safety issues that the Ministry of Labour found in June 2024 existed when the Appellant was still working there (i.e. before April 22, 2204).

[33] I accept the Appellant's evidence about his safety concerns at the workplace. The employer's denials of safety issues at the plant were refuted by the Ministry of Labour inspection and orders.

[34] In January 2024, the Appellant clogged a belt for a customer. He made a mistake and clogged the wrong side.

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<sup>5</sup> The Ministry of Labour issued some orders against the employer. The orders relate to machine guards and an electrical panel that is missing a cover. The orders also include basic things like the fact that there is no health and safety policy at the workplace.

<sup>6</sup> See GD07-3. The Commission says the orders show there were safety issues, but it points out that the inspections were done after the Appellant quit his job.

[35] The customer complained. Then, someone from head office shouted at the Appellant's supervisor. Then the Appellant's supervisor shouted at him in front of other employees. He said the Appellant didn't look at the instructions for the belt. The Appellant was upset and was crying.

[36] The Appellant agrees that he made a mistake. He agrees that he was responsible for it. But it wasn't right for the supervisor to demean him about it, especially in front of other employees.

[37] The Appellant talked to the plant manager about this. The plant manager said that the supervisor is a bad-tempered guy, and the Appellant should go back to work. And he said if it happened again, the Appellant should come back and see him.

[38] The employer's representatives and some employees told Service Canada that the supervisor isn't bad tempered. The supervisor himself denied yelling at the Appellant.

[39] I accept the Appellant's evidence about the supervisor humiliating him. He admitted he made a mistake when he clogged the belt. And he admitted that the supervisor made him cry. These admissions are not necessarily favourable to him. This persuades me that his description of the events is credible.

[40] In mid-April the Appellant applied for a passport. He needed the passport to do his banking. The passport office asked him to come in and give them some additional information. He asked his supervisor if he could have a day off to do this.

[41] The supervisor said he couldn't have any time off for his passport. He had already given the Appellant three days off when his mother died in January. The supervisor said that if the Appellant wanted another day off, he had to quit.

[42] The Appellant didn't come to work the next day. He went to the passport office.

[43] He sent an e mail to his supervisor. The e mail says he quit. But the Appellant doesn't say why. The Appellant said he didn't put reasons in his quit letter because he wanted to leave on good terms.

[44] I find that the key circumstance that existed when the Appellant quit his job was that he felt devalued by his employer.

[45] He felt devalued for three reasons:

- The workplace had serious safety issues. The Appellant reported them. The employer didn't want to fix them. Then, just about a month before he quit, the supervisor told the Appellant he had to lock himself in a room to do his work when visitors were in the plant.
- The Appellant's supervisor humiliated him in front of other employees. The plant manager told the Appellant he should let him know if it happened again.
- The supervisor refused to give the Appellant time off to get his passport.

[46] The employer told the Commission that the Appellant quit because he was upset that they wouldn't give him money to go back home after his mother passed away. The Appellant denies that he quit for that reason. His mother died in January 2024.

[47] The Appellant told me that when his mother died, the plant manager asked if there was anything the company could do to help him. The Appellant told him he needed financial help to go back home to his mother's funeral. The plant manager said he wished he could help, but the employer had loaned money to an employee before so he could go home for a funeral. And the employee didn't come back. The company lost money. So, they couldn't give the Appellant any money.

[48] I find that the Appellant's mother's death had nothing to do with the Appellant's decision to quit.

### **There were reasonable alternatives available to the Appellant**

[49] Three things caused the Appellant to quit his job: his workplace was unsafe, his supervisor harassed him, and his supervisor told him he couldn't have a day off to get his passport.



[50] There were reasonable alternatives available to the Appellant to deal with the harassment by his supervisor, and the fact that he wasn't given time off to get his passport. But on the most important of those three concerns – the safety of the workplace – there was no reasonable alternative.

[51] The Appellant complained to the plant manager about his supervisor's harassment when it happened. The plant manager was sympathetic to the Appellant. He told him to come back if the supervisor harassed him again. I find that going back to the plant manager if he was harassed again, was a reasonable alternative.

[52] The supervisor didn't give him time off to go to the passport office. As discussed above, the plant manager helped the Appellant when he was harassed by his supervisor. And the plant manager offered to help when the Appellant's mother died (even though he ultimately was not able to loan the Appellant any money). These responses show a level of compassion or at least good management. So, I find that it was a reasonable alternative for the Appellant to ask the plant manager for time off to go to the passport office.

[53] The Appellant quit the day after he was denied the day off to get his passport. The safety issues and the harassment happened before that day. However, the Appellant told the Commission, and he told me, that those safety issues were one of the reasons he quit. I find that the safety issues were in the Appellant's mind when he quit that day. The Appellant had serious concerns. He hoped that things would improve. They didn't. In fact, just a few weeks before he quit (in mid March 2024) the employer put a door on the area where he worked and told him to keep it locked if customers were in the plant.

[54] The Commission says the Appellant could have called in the Ministry of Labour about his safety concerns. The Appellant was concerned that if the employer knew he called in the Ministry of Labour, he would be fired. I think that is a reasonable concern.

[55] The Appellant knew the company owners weren't interested in making the workplace safe. And the employer misled the Commission in saying there were no safety problems at the workplace.

[56] In all these circumstances, the employer likely would have retaliated against the Appellant if they knew he reported them to the Ministry of Labour. So, I agree with the Appellant that this wasn't a reasonable alternative.

[57] The Appellant reasonably feared for his safety. This was an important part of why he felt the employer devalued him. He gave the employer a chance to fix things. Calling in the Ministry of Labour wasn't an option. I find that the Appellant didn't have a reasonable alternative but to quit.

## **Conclusion**

[58] I find that the Appellant is not disqualified from receiving benefits.

[59] This means that the appeal is allowed.

Paula Turtle

Member, General Division – Employment Insurance Section