Citation: *KS v Canada Employment Insurance Commission*, 2025 SST 392

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	K. S.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (693987) dated January 7, 2025 (issued by Service Canada)

Tribunal member:	John Rattray
Type of hearing:	In person
Hearing date:	March 12, 2025
Hearing participant:	Appellant
Decision date:	March 24, 2025
File number:	GE-25-493

Decision

[1] The appeal is dismissed.

[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 when he did. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant left his job on July 26, 2024, after having submitted his resignation on July 15, 2024. 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 secured a job elsewhere, retaken the mandatory training, or contacted HR before quitting. It also says he failed to show that his working conditions were intolerable.

[6] The Appellant disagrees and says that his employer failed to address persistent issues that he had identified including clarifying his role, the failure to provide necessary training in a timely manner, and harassment. He says his leaving wasn't voluntarily because he felt he was constructively dismissed.

Matter I have to consider first

I will accept the documents sent in after the hearing

[7] During the hearing, I agreed to accept additional documents if they were promptly filed. The Appellant provided the additional documents promptly and I provided

an opportunity for the Commission to make submissions in response. The Commission chose not to make additional submissions. I accept these documents.[1]

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 Appellant doesn't agree that he voluntarily left his job

[10] First, I have to decide whether the Appellant voluntarily left his job. It's up to the Commission to prove, on a balance of probabilities, that the Appellant voluntarily left his job.[2] In other words, it must show that it's more likely than not that the Appellant voluntarily left.

[11] The determination of whether an employee voluntarily left is a straightforward one. The question to be asked is this: Did the employee have a choice to stay or to leave?[3]

[12] The Appellant says that his departure wasn't voluntary because he left under duress because of the untenable working conditions.

[13] The Commission says that the Appellant voluntarily left.

Did the Appellant voluntarily leave his job?

[14] Yes, I find that the Appellant voluntarily left his job. I find this for the following reasons.

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[1] See GD7 and GD8.
[2] See *Green* v *Canada (Attorney General)*, 2012 FCA 313.
[3] See *Canada (Attorney General)* v *Peace*, 2004 FCA 56.

[15] I accept as credible the Appellant's testimony that he felt he left under duress due to the untenable working conditions. However, the Appellant had a choice. He testified that he chose to leave, and that he could have stayed.

[16] I must now determine whether the Appellant had just cause for voluntarily leaving his employment and whether it was the only reasonable alternative in his case. In assessing whether the Appellant had just cause, I will consider the issues the Appellant raised about leaving under duress.

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

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

[18] 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.**

[19] 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]

[20] 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.[6]

[21] 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.[7]

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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 4.
[7] See section 29(c) of the Act.

[22] 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.[8]

The circumstances that existed when the Appellant quit

[23] The Appellant says that four of the circumstances set out in the law apply.[9] Specifically, he says that there were modifications of his wages or salary, excessive overtime, changes in his work duties, and illegal practices by his employer.

Modification of wages or salary

[24] The Appellant says that his wages or salary were modified because he wasn't progressing with the employer as he had anticipated. He was concerned that this would impact his bonus as well as his future salary adjustments and career opportunities.

[25] The Appellant's offer of employment said he was eligible to receive an annual bonus at a target of 10%. It noted that the bonus amount, if any, will vary based on company and individual performance.[10] It didn't state that he would be promoted on a set timeline.

[26] I accept that the Appellant was concerned about his longer term earnings and career. However, I find that there is insufficient evidence to establish a significant modification of his salary because his offer of employment didn't specify a timeline for future salary adjustments.

Excessive Overtime

[27] The Appellant testified that he was hired as a manager and as such he didn't expect to be paid overtime. However, he says that his workload was intolerable, requiring him to work up to 9 to 10 hours a day and to be available evenings and weekends. He said it was impacting his health.

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[8] See section 29(c) of the Act.
[9] See subsections 29(c) (vii), (viii), (ix), and (xi) of the Act.
[10] See GD8-30.

[28] I find that the Appellant wasn't required to work excessive overtime. In making this finding, I rely on both the Appellant's testimony that he didn't expect overtime and his signed agreement to work more than 8 hours a day, and more than 48 hours a week.[11]

Significant changes in work duties

[29] The Appellant says that he was hired to work as Manger, Operational Quality, but practically it was a specialist role. He says he wasn't working as a Manager or a specialist. He testified that the duties he was performing were an entry-level document review role.

[30] In the course of the hearing, the Appellant testified that in his field manufacturing is heavily regulated and subject to numerous controls. The employer required the Appellant, and others hired for similar roles, to complete all modules of its internal training. He said that because of delays and issues with various staff, he had not completed the final module on deviations and his training was unnecessarily extended. This meant that he was unable to work independently as contemplated in his job description, and was repeatedly assigned document review tasks.

[31] He testified that reviewing documents was considered a "shit" job more suited to students or entry-level staff.

[32] I find that there was a significant change in his work duties. I find this because he was hired to provide quality oversight and guidance, working independently with a high level of autonomy and authority for decision making.[12] While some review of records and logbooks is within the scope of the role he was hired for, his actual work duties with the employer had been significantly limited.

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[11] See GD8-20.
[12] See GD8-17 to GD8-19.

Practices of employer contrary to law

[33] The Appellant testified that he felt he was held back in his training on deviations because he had previously raised concerns about his employer's practices. He testified that certain staff members were not complying with the regulatory requirements for deviations and that he had documented his concerns. These concerns included the removal of documents from files, and signing off on deviation reports.

[34] The Appellant testified that he was delayed in obtaining his sign-off as an operational quality manager because he refused to sign off on deviations in a manner contrary to the law. In his detailed submissions, the Appellant carefully described the processes that are followed and his reaction to being "failed" on one instance because the examining deputy director concluded that he had failed to remove a document from a file. He says that it would have been a regulatory violation to remove the document in question.

[35] The Appellant documented several instances in which he felt he wasn't properly recognized or supported for recommending the removal of processes or controls because he considered them redundant.[13] In another instance, he wrote that his manager was unhappy with the Appellant's opinion **not** to file a deviation for a broken scale.[14]

[36] What is clear from a careful review of the extensive testimony and documentation provided by the Appellant is that there is an element of judgment in performing operational quality management. This judgment is exercised within a complex regulatory framework. Management wanted the Appellant to learn and work within the employer's "way" and the Appellant had his own perspective.

[37] I accept that the Appellant had a different perspective on specific practices, processes, and controls than certain employees. However, on a balance of probability, I

[13] See GD8-25.
[14] See GD8-26.

cannot conclude that this makes the employer's practices contrary to law. There is insufficient evidence to make that finding.

Considering all the circumstances

[38] Based on the testimony and evidence, I find that in the months leading up to the Appellant's resignation the circumstances that existed were:

- The Appellant had a new manager who improved the work environment "significantly."[15]
- His concern about workload led to him receiving assistance on logbook review.[16]
- He expected that because his direct manager had signed off on his deviation module, the final review by the deputy director should have been a formality.
- The deputy director focused her review on one issue and asked for specific details about a file he had completed about two months earlier. [17]
- He felt it was unfair because he answered all but one or two questions.
- He felt that the deputy director was intentionally trying to make him fail again.[18]
- He was asked to reread the DCF (on deviations).[19]
- His manager suggested he go back to the deputy director after reading the DCF.[20]

[15] See GD8-26.
[16] See GD8-27.
[17] See GD8-28.
[18] See GD8-28.
[19] See GD8-28.
[20] See GD8-28.

- He chose to leave because he didn't want to continue under the work environment, and felt humiliated.[21]
- He felt he was being held back and overworked doing junior tasks.
- He felt that his career prospects and salary would suffer.

[39] Though Appellant felt undervalued, and that he was under pressure to sign off on deviations illegally, he says that he would have stayed on if he had passed the deviation assessment.

The Appellant had reasonable alternatives

[40] I must now look at whether the Appellant had no reasonable alternative to leaving his job when he did.

[41] The Appellant says that he had no reasonable alternative because:

- He had escalated his concerns to senior management, but they didn't resolve them.
- His immediate manager had discouraged him from going to HR.
- He was concerned about making a complaint through official channels if it went to his boss.
- He had been unable to transfer to a different position within the company.
- He had been unsuccessful in finding another job outside of the company.
- It was hard to find another job while employed.
- He was having difficulty sleeping and was drinking.
- He was feeling humiliated and was under great stress.

[21] See GD8-28.

[42] The Commission disagrees and says that the Appellant could have:

- secured employment elsewhere before leaving
- retaken the mandatory training
- gone to HR earlier

[43] It also says that the Appellant failed to show that the working conditions were intolerable because the employer had listened to his concerns and changed his trainer. It says it was reasonable to retake the training because the employer was justified in not passing the Appellant.

[44] I find that the Appellant had reasonable alternatives to leaving when he did. In making this finding, I am not finding that pursuing each of these alternatives would necessarily have satisfied the Appellant. However, doing so would have discharged his obligations under the Employment Insurance Act (Act) to explore reasonable alternatives.

[45] I find that the Appellant hasn't shown that the working conditions were intolerable because he testified that he would have stayed had he passed his deviation assessment. This means that it is more likely than not that the conditions were not intolerable because he was prepared to work within the employer's regulatory culture.

[46] I also find that a reasonable alternative would have been to reread the DCF as requested by the deputy director and recommended by his manager. His decision not to do so meant that the risk of not being approved to take on the full range of his duties became made a certainty. The request to reread the DCF didn't necessarily entail another lengthy delay in his training.

[47] I also find that the Appellant could have raised his concerns directly with HR. In his testimony he acknowledged that had he really wanted to identify where HR was located and reach out to it, he could have done so. I don't accept his argument that he could not use an email to report his concerns because he didn't know if his boss would

be advised. He was prepared to leave his job and had directly raised his concerns with management in the past.

[48] In the circumstances, there was no barrier to him raising his concerns directly with HR. The fact that he first contacted HR after submitting his resignation means that he missed a reasonable alternative to obtain assistance in addressing his concerns before he quit.

[49] I find that the Appellant could have requested a leave of absence. He said he didn't think of it. A leave of absence would have maintained the employment relationship allowing the Appellant the opportunity to address his health concerns, prepare for another deviation assessment, or devote his attention to finding a new job. The Appellant testified that it was challenging to conduct an effective job search while still employed in a demanding position.

[50] Also, I find that the Appellant could have gone to his doctor and discussed his concerns about his stress, lack of sleep, and consumption of alcohol. I find that it was a reasonable alternative to seek his doctor's advice which could have assisted him in dealing with his concerns, advised him to request a leave of absence, or to leave his employment.

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

[52] This means the Appellant didn't have just cause for leaving his job. He had good cause and decided on a course of action after discussing it with his supportive family. Unfortunately for the Appellant, as discussed above, the law requires just cause.

Conclusion

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

[54] This means that the appeal is dismissed.

John Rattray

Member, General Division – Employment Insurance Section