



Citation: *NM v Canada Employment Insurance Commission*, 2025 SST 790

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: N. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (0) dated June 20, 2025 (issued
by Service Canada)

Tribunal member: Meena Dhillon

Type of hearing: Teleconference

Hearing date: July 10, 2025

Hearing participant: Appellant

Decision date: July 25, 2025

File number: GE-25-1993

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

Overview

[3] The Appellant was off work due to medical reasons and applied for EI sickness benefits on August 12, 2024. On November 7, 2024, he separated from his employer.¹ When his EI sickness benefits ended, he applied for EI regular 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 Commission says that the Appellant could have returned to his employment when he was cleared to return to work or found another job before he quit.

[6] The Appellant disagrees and states that he had no reasonable alternative but to leave his employment when he did. He says he was unable to return to his employment due to workplace harassment.

Issue

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

¹ See GD3-24.

[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 November 7, 2024. I see no evidence to contradict this.

[10] 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 because of workplace harassment.

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 his job when he 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.² 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.³

[14] It is up to the Appellant to prove that he had just cause.⁴ 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.⁵

² Section 30 of the *Employment Insurance Act* (Act) explains this.

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

⁴ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

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

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

The circumstances that existed when the Appellant quit

[16] The Appellant was with his employer for 12 years. He argues that he left his employment because a circumstance set out in the law that applies.⁷ Specifically, he testified that he left his employment because his employer treated him poorly, including:

- a) A co-worker making fun of his appearance in September 2021.
- b) Co-workers refusing to say “Hi” to him or acknowledge him.
- c) He was made to feel uncomfortable while at work, specifically in group settings.

[17] The Appellant says his health was impacted because he stayed with his employer for three years, while he tried to find another job. He says that he didn’t want to leave his job until he found a new job. He claims he started to look for a new position as of September 2021, but he was unable to secure another job in his field.

[18] While he was on medical leave, he started to feel better.

[19] Because of his financial situation, during his leave he decided to move to live with his family in another province.

[20] He made a decision to not return to work in November 2024 because he didn’t want to get sick again and he was close to retirement age. He says he didn’t have any other choice but to quit.

[21] The Appellant says he was being harassed at work. This is one of the circumstances set out in the law.⁸ Another circumstance in the law may also apply to

⁶ See section 29(c) of the EI Act.

⁷ See subsections 29(c) (iii) and (x).

⁸ See section 29(c)(i) of the EI Act.

the Appellant's situation, even though he didn't directly argue it. That is whether he experienced antagonism with a supervisor for which he was not primarily responsible.⁹

[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.¹⁰

Was the Appellant being harassed at work?

[23] No. I find there isn't sufficient evidence to show that the Appellant was harassed at work.

[24] Harassment is usually seen as acts or verbal comments that could mentally hurt or isolate a person in the workplace. It commonly involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade, or humiliate someone.¹¹

[25] The Appellant testified that he was harassed at his workplace. He says:

- a) A co-worker made fun of his appearance in September 2021.
- b) He raised the issue to his employer and his co-worker apologized to him. He says that his employer did not conduct a proper investigation, and they did not provide a report.
- c) He returned to work after this incident, and he felt shunned.
- d) He says after this incident, many of his co-workers stopped saying hi to him.
- e) He says he no longer felt comfortable in the lunchroom or group settings at work.
- f) He felt the co-worker that made fun of him, held a grudge against him.

⁹ See section 29(c)(x) of the EI Act.

¹⁰ See section 29(c) of the EI Act.

¹¹ See Canadian Umpire Benefits (CUB) decisions 57619, 55611, 56604, and 57338. CUB decisions aren't binding on the General Division, but I can follow them.

- g) He went to work and stayed in the lab where he worked for most of his day. He says his 8-hour shift felt like it was 12 hours.
- h) No one would help him with his job duties, whereas in other departments everyone helped each other.
- i) After he raised his concern about being made fun of, he says his employer took away duties from him.
- j) He says he started to look for another job after this 2021 incident. He says he sent out resumes to other places that he was qualified to work at.
- k) He submits that he had no intention of quitting his job without finding a new job. This is why he continued to work there from 2021 until he separated from his employer on November 7, 2024.
- l) He says after the September 2021 issue, he never raised any other issues to his employer.
- m) He didn't feel he could report anything further to his employer because the co-worker that made fun of him was also the person responsible for health and safety concerns. He felt this co-worker held a grudge against him. He didn't explain why he didn't approach others at his workplace, such as the person responsible for handling his September 2021 complaint.
- n) He never asked for an accommodation or discussed a transfer to another location. He says in the past he had asked to move into another position and his request was denied. He feels his employer would not have accommodated him.
- o) Due to workplace stress, he says his doctor put him on medical leave in August 2024.
- p) After 3 years of harassment, he didn't want to raise anything further to his employer because he feared what would happen.

- q) While he was on medical leave, he wasn't able to afford living on his own. He says his family offered to help him. He moved to another province and started to live with his family.
- r) He didn't want his family to send him money to help him pay his expenses until he could return to work. He says that he is not that type of person.
- s) While on medical leave and with the support of his family, he started to feel better. He didn't want to return to an environment that would make him sick again.
- t) He acknowledged sending an email to his employer in November 2024 in which he resigned from his position and told his employer that he wouldn't be returning to work because he was close to retirement.¹² He made this choice for his mental sanity.
- u) He confirmed that his doctor did not tell him to leave his job and that in fact, he was cleared to return to work in February 2025.¹³

[26] He didn't start looking for work until he found out his benefits were denied. He called his former employer in February 2025 to see if he could get his job back and he was advised the position was filled after he resigned in November 2024.

[27] The only time he reported his harassment concern to his employer was in September 2021. He never reported any workplace harassment to any third parties or provincial employment standards or human rights organizations.

[28] The Commission says while the September 2021 harassment incident may have contributed to him leaving his employment, they don't accept that he would have waited three years to leave his employment if it was as discriminatory as he alleges. Further they say the employer handled the incident the 2021 incident appropriately and this led

¹² See GD3-23 to GD3-24.

¹³ See GD3-38.

to the Appellant returning to work. They argue the Appellant has not established that he left his employment for just cause.

[29] I find that the harassment incident in September 2021 occurred as the Appellant described it, and it was the only incident that the Appellant raised to his employer.

[30] I also accept that the Appellant was on medical leave from August 2024 until November 2024. I make a finding that the Appellant left his employment in November 2024 because of a personal choice he made. He made this choice on his own and it was not directed by his doctor.

[31] While I acknowledge the Appellant felt uncomfortable in the lunchroom or group settings at work, I am not convinced this was due to workplace harassment. If he felt shunned upon his return after the September 2021 incident, he should have raised his concerns to his employer, but he made a choice not to. While he argues that the person holding a grudge against him was the staff responsible for health and safety, the evidence indicates that his employer had a human resources department that he could have contacted, if he had further issues in the workplace.

[32] I prefer the argument of the Commission that if the workplace was as stressful as the Appellant argues in this appeal, then he would not have waited 3 years to separate from his employer.

[33] For this reason, I find the evidence doesn't support the Appellant experienced harassment at work.

Did he experience antagonism with a supervisor?

[34] No. I find the Appellant hasn't shown that he experienced antagonism with a supervisor for which he was not primarily responsible.¹⁴.

[35] Antagonism is a form of hostility or attitude which in most cases cannot be detected or decided by what may have occurred in one incident or in one dispute.

¹⁴ See section 29(c)(x) of the EI Act.

Where antagonism is prevalent it is more likely that a pattern of behaviour will emerge over a period from which antagonistic relations may be detected.¹⁵

[36] The Appellant says that the person responsible for health and safety at the workplace first made fun of him and then after he raised concerns about this behaviour, this co-worker held a grudge against him. It isn't clear if this co-worker was in a supervisory level but since this is the person the Appellant would typically report his concerns, I have assessed this relationship to be one similar to a co-worker and supervisor.

[37] The Appellant testified that he felt this co-worker was responsible for other co-workers stopping to say "Hi" to him and isolating him. He says as a result of this type of behaviour, he didn't feel comfortable going into the lunchroom or other groups setting where the staff would meet.

[38] The Appellant's evidence suggests that he went to work and worked alone. He testified that he avoided the lunchroom and other group settings at work. He provided no evidence as to his interactions with the co-worker that made fun of him, after the September 2021 incident to the present.

[39] I'm not persuaded that the Appellant experienced antagonism from his supervisor. I accept that there was an incident where the supervisor made an inappropriate comment about the Appellant in 2021, however, since then there is no further evidence to support that this behaviour continued or that this co-worker continued to treat the Appellant in a disrespectful manner.

Did his work environment affect his health?

[40] Yes. I find that the Appellant has shown that the work environment negatively affected his health.

¹⁵ CUB 36792. Although I am not bound by CUB decisions, I will rely on this description of antagonism as a suitable test to be met when deciding whether an antagonistic relationship exists.

[41] The Appellant testified that his health was impacted because of working in an environment where he felt harassed. He testified that while he was on leave, he started to feel better. It was because he was feeling better, that he decided not to return to a workplace that he believes caused him stress.

[42] The Appellant's uncontested testimony supports that his work environment negatively affected his health, causing him to take a medical leave, so I accept that was the case.

Did he have reasonable alternatives?

[43] Yes. I find the Appellant had reasonable alternatives to leaving his job when he did.

[44] The Commission says 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 returned to work when he was medically cleared or he should have looked for another job before quitting.

[45] The Commission says that instead of moving while he was on leave, to be closer to his family, the Appellant should have sought financial support from his family and returned to work when he was medically cleared. They say he should have discussed his concerns with his employer. They say he could have requested an accommodation or transfer.

[46] The Commission points out that the Appellant had worked under the same conditions for 3 years before quitting and if he was close to retirement, then he had the option of returning for a short time and not being unemployed. They say he made a personal choice to leave his work when he had reasonable alternatives available to him.

[47] Further the Commission argues that when the Appellant emailed his employer to resign, his reason for leaving was because he was close to retirement age. They argue that he never raised his concerns about workplace harassment to discuss alternatives with his employer.

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

[49] The Appellant says that he had no reasonable alternative to leaving at that time because when he started to collect his EI sickness benefits, he wasn't able to meet his financial obligations living on his own. He says his family invited him to come live with them in a different province and he had no choice but to move away from his employment.

[50] Once he moved and with the support of his family, he started to feel better. He knew he didn't want to return to a workplace that would just make him sick again.

[51] He argues that he was unhappy with his job since 2021 and that he had been looking for a new job. He says he applied for jobs on Indeed. He testified that it is hard to find jobs in his field. He did not provide any evidence of his job search.

[52] He testified that he didn't look for work while he was on medical leave and that he resumed his job search in February 2025. While he had no plans of returning to his previous employer, he did call them to see if he could return to work in February 2025, but he was advised his position was filled. He remains unemployed and he is financially stressed. He is not the type to collect income assistance benefits.

[53] I find the Appellant made a personal choice to leave his job when he did and although it may have been a good cause or a good personal reason for him, it does not meet the standard of just cause required to allow benefits to be paid.

[54] I sympathize with the Appellant that he didn't want to return to a work environment that caused him stress and made him feel unwell. He might have felt that quitting was his only option, but he had reasonable alternatives to leaving his job when he did. The law says that anyone who leaves their job without exhausting reasonable alternatives did not have just cause and so cannot be paid EI benefits. Neither I or the

Commission has any authority to circumvent, ignore or change the legislative requirements as dictated by the Act, even in the interest of compassion.¹⁶

[55] I find the Appellant did not prove on a balance of probabilities that he had no reasonable alternative to leaving his job when he did. The question is not whether it was reasonable for the Appellant to leave his job, but rather whether leaving the job was the only reasonable course of action open to him. He has not met the burden of proving he had just cause for voluntarily leaving his job.¹⁷

[56] Considering all of the circumstances that existed when the Appellant quit, I find he had reasonable alternatives to leaving when he did and thus, he does not meet the test for having just cause pursuant to the law.

[57] The courts have said in most cases, it's reasonable for a claimant to make efforts to find another job before deciding to quit.¹⁸

[58] This means the Appellant didn't have just cause for leaving his job. He had good cause and decided on a course of action that he felt was best for him. Unfortunately for the Appellant, as discussed above, the law requires *just cause*.

Conclusion

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

[60] This means that the appeal is dismissed.

Meena Dhillon

Member, General Division – Employment Insurance Section

¹⁶ *Canada (Attorney General) v. Knee*, 2011 FCA 301.

¹⁷ *Canada (AG) v. Laughland*, 2003 FCA 129.

¹⁸ See *Canada (Attorney General) v. White*, 2011 FCA 190.