



Citation: *NS v Canada Employment Insurance Commission*, 2025 SST 747

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

## **Decision**

**Appellant:** N. S.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (700283) dated January 15, 2025  
(issued by Service Canada)

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**Tribunal member:** Audrey Mitchell

**Type of hearing:** Teleconference

**Hearing date:** May 27, 2025

**Hearing participant:** Appellant  
Appellant's representative

**Decision date:** June 2, 2025

**File number:** GE-25-1490

## Decision

[1] The appeal is dismissed. The General Division 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 as a clinical receptionist on August 23, 2024. Her employer continued to pay her until September 2024, and then the Appellant claimed EI benefits. 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.

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

[5] The Commission says the Appellant could have stayed at her job until the employer's executive director decided if her probationary period would be extended or if her employment would be terminated.

[6] The Appellant says her contract ended in May 2024, but the employer extended it for three months. She says her employer told her that her contract would not exist if her performance didn't improve.

## Issue

[7] Is the Appellant disqualified from receiving benefits because she voluntarily left her 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 don't agree that the Appellant voluntarily left

[9] The Commission has to show that the Appellant voluntarily left her job.<sup>1</sup> To determine if the Appellant voluntarily left her job, I have to decide if she had a choice to stay or leave.<sup>2</sup>

[10] In her application for benefits, the Appellant said she was no longer working due to shortage of work. But her employer issued a record of employment (ROE) that says the Appellant quit her job.

[11] The Appellant spoke to the Commission about the reason she wasn't working. She said she had a performance meeting with her manager on August 23, 2024. She said she was told that she was not doing her job properly and that her contract would not be renewed. She said she didn't get a termination letter, but she knew that she had been terminated because the employer asked her to drop off her key before leaving on that day.

[12] The Appellant later clarified with the Commission that the performance meeting was on August 21, 2024. She said her employer dismissed her two days after the meeting, on August 23, 2024. She said that the employer asking her to return her key means that it dismissed her because she could not open the clinic, which was her responsibility.

[13] The Appellant's former manager told the Commission that the Appellant had a permanent contract with no end date. She said she met with the Appellant on August 21, 2024, to give her some feedback. The manager said the executive director (ED) wasn't in the office, and that she (the manager) didn't have the authority to decide to

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<sup>1</sup> See *Green v Canada (Attorney General)*, 2012 FCA 313; *Canada (Attorney General) v White*, 2011 FCA 190.

<sup>2</sup> See *Canada (AG) v. Peace*, 2004 FCA 56.

keep the Appellant at her job or dismiss her. So, the manager said she told the Appellant to wait for the executive director's instructions.

[14] The manager said the Appellant didn't want to wait because she already knew what the outcome would be. The manager told the Commission that she told the Appellant that she didn't have to make the decision to resign then, but the Appellant insisted on leaving and made August 23, 2024, her last day of work.

[15] The manager said that the employer sent an email to the Appellant asking her to confirm that she had quit, but the Appellant said she didn't quit; rather her contract had ended. She said the employer kept the Appellant on payroll while waiting for legal advice and then determined that the Appellant had abandoned her job.

[16] The employer sent the Commission a copy of a job offer made to the Appellant on November 16, 2023.<sup>3</sup> The offer was conditional on the Appellant signing and returning it to the employer before her start date. There is no end date listed on the offer. But it says the job is subject to terms of the offer letter and the successful completion of a six-month probationary period.

[17] One of the terms in the offer letter relates to termination. It says that if the Appellant is dismissed before the end of her probationary period, she would get statutory notice or pay in lieu of notice, among other things.

[18] Both the Appellant and the employer said that the probationary period was extended by three months. So, I find that the Appellant wasn't working under the type of employment contract that had a specific end date. Rather, I find that the meeting that the Appellant had with her manager happened towards the end of her extended probationary period.

[19] Despite the Appellant's insistence that she didn't resign or abandon her position, and that she didn't express any intention to do so, I find that the Appellant initiated separation from her job by declining to wait for the ED's decision about her employment

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<sup>3</sup> See pages GD3-31 to GD3-37.

after the performance meeting. I don't find that the employer dismissed her as the Appellant claims.

[20] The Appellant sent the Commission two emails related to the end of her employment. In the first, the employer asked the Appellant to submit a resignation letter for its records if she still wanted to resign instead of waiting for the ED to review her performance feedback.<sup>4</sup> In the second the Appellant said she had stayed an extra two days after the performance feedback that she didn't agree with. She said would not send a resignation email because her contract had ended.<sup>5</sup>

[21] The Commission argued that there's no evidence that the Appellant's contract ended or that the employer dismissed her. It also said that in her response to the employer's email, the Appellant didn't deny that that she had resigned.

[22] I give more weight to the employer's email to the Appellant than to the Appellant's statements that she didn't quit her job. Even if the Appellant truly believed that she could not return to work because her contract had ended, I find that the employer's email shows that it was open to the Appellant to return to work pending the ED's decision. But the Appellant simply said her contract had ended. So, I find that she had a choice to return to work.

[23] In addition to the above, I don't find it plausible that an employer who had dismissed an employee would later reach out to that employee to effectively confirm the employee's intention was with respect to the job.

[24] I referred the Appellant to the termination clause in her offer of employment letter. I asked her if she was suggesting that her employer dismissed her in her probationary period. She agreed that this is what happened. I asked if the employer had told her that her contract was being terminated. She said the employer told her that her contract will no longer exist. But she said she didn't get this in writing.

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<sup>4</sup> See page GD3-24.

<sup>5</sup> See page GD3-22.

[25] I asked the Appellant if she got statutory notice of the termination or severance pay. She said she didn't. But the Appellant said she got her last pay on September 5, 2024, and that's when she applied for benefits.

[26] I find from the absence of written notice of termination within the extended probationary period that the employer likely didn't dismiss the Appellant. And I find the employer's statement to the Commission that the ED was the one with the authority to decide to maintain or end the Appellant's employment is more reliable than the Appellant's testimony that her manager told her that her contract would no longer exist. Again, the employer's email to the Appellant refers to the Appellant not wanting to wait for the ED's review of the Appellant's performance.

[27] The ROE the employer issued shows that the last day the Appellant was paid for was September 13, 2024. It shows that the last pay period ended on September 13, 2024, and that the Appellant accumulated 80 hours in that two-week period. But the Appellant testified that the ROE is wrong.

[28] The ROE shows that the second last pay period ended on August 30, 2024. So, since the Appellant says she last worked on August 23, 2024, the pay details listed in pay period two on the ROE would be for work the Appellant did from August 17 to August 30, 2024.

[29] Without documentary evidence from the Appellant showing that the ROE the employer issued is wrong, I accept that it accurately reflects the Appellant's earnings and the periods they were paid for. And since the ROE was issued on October 3, 2024, shortly after the Appellant was last paid, I find that the ROE supports the employer's statement to the Commission that it kept the Appellant on payroll while it consulted its legal department about the end of the Appellant's employment.

[30] The Appellant referred to the employer asking her to return her keycard and to forward pending work from her inbox to her colleagues. She said this showed that the employer had dismissed her. I agree that the employer's request for her to do so is consistent with actions an employer would take when they dismiss an employee. But I

also find that an employer would do the same when an employee quits their job. So, I don't agree with the Appellant's statement that being asked to return a keycard means she was dismissed from her job.

[31] Based on the above, I don't find that the Appellant was dismissed from her job. Again, I find that she had a choice to stay or leave her job. And because of how she responded to the employer's email to her on August 26, 2024, I find that she voluntarily left her job.

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

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

[33] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>6</sup> Having a good reason for leaving a job isn't enough to prove just cause.

[34] 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>7</sup>

[35] It is up to the Appellant to prove that she had just cause.<sup>8</sup> 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.

[36] The Appellant maintains that she didn't quit her job. She says her employer dismissed her when it said her contract would no longer exist.

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<sup>6</sup> Section 30 of the *Employment Insurance Act* (Act) explains this.

<sup>7</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

<sup>8</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

[37] The Commission says the Appellant didn't have just cause, because she had reasonable alternatives to leaving when she did. Specifically, it says the Appellant could have waited for the ED to return to the office and discuss next steps with her.

[38] I find that the Appellant had reasonable alternatives to leaving her job. I find that she could have returned to work after she got the email from her employer and waited for the ED's review of her performance.

[39] I asked the Appellant about the Commission's submission. The Appellant said she has never met the ED. She insisted that the two people she worked with, her manager and supervisor, told her that she no longer had a job.

[40] Despite the Appellant's response, I have already found that she chose to leave her job and wasn't dismissed. I find from the employer's email to her that she could have had a further conversation with her employer to clarify what she thought was the end of her contract and then returned to work to await the ED's decision.

[41] It is possible that on review of the Appellant's performance, the ED may have decided to dismiss the Appellant. But even if the Appellant believed that this would be the outcome, I find that she could have continued to work for the employer until this happened.

[42] In her notice of appeal, the Appellant said she experienced discriminatory behaviour, including racial bias, from her supervisor. I asked her about this. The Appellant testified about an incident with a patient that happened in November 2023. She said she reported it to her supervisor, but the supervisor ignored her. She said her supervisor only took her word about what happened after she told a doctor what happened.

[43] The Appellant also testified about the employer saying that she arrived late to work. She explained that she lives the furthest from work. She said everyone arrived to work late.



[44] I asked the Appellant what led her to believe that her supervisor was discriminating against her. The Appellant said the supervisor was nice to everyone else besides her. She said she had a colleague who was late every single day, but the supervisor never said anything to her. The Appellant added that the one time she was late for work, it was a problem.

[45] I asked the Appellant if she had spoken to anyone about the incident. She said she spoke to her colleagues and service providers. She questioned why she was the only one who was being targeted for being late. I asked the Appellant if she had spoken to anyone who had the authority to something about what she said was her supervisor's racial bias. She said she spoke to the manager, who said she would speak to the other employees. But the Appellant said that never happened.

[46] Because the Appellant didn't raise this issue before the Commission made its reconsideration decision, there is no response to the Appellant's allegations of discrimination and racial bias. But I don't find that the Appellant has shown that her decision to leave her job had anything to do with this.

[47] Despite the incident from November 2023, the Appellant continued to work for the employer. And even though she said the incident was resolved only after a doctor got involved, I'm not satisfied from her evidence that the reason for the employer's apparent delay in responding was based on racial bias.

[48] I found the Appellant's statements that everyone arrived late, that she was the only one targeted for being late, and that the supervisor was nice to everyone else but her were likely exaggerated. For example, she didn't say how she would know what the supervisor's and manager's conversations about lateness or other disciplinary issues with her co-workers were.

[49] The Appellant didn't say that she was never late to work. So, in the absence of more detailed evidence from her, I don't find that the employer's feedback to her about her attendance was discriminatory or based on racial bias. And if she felt it was, she

could have addressed her specific concern of discrimination and racial bias with the employer.

[50] Based on the above, I find that the Appellant had reasonable alternatives to leaving her job. So, I find that she hasn't shown that she had just to leave her job when she did.

## **Conclusion**

[51] The Appellant hasn't shown that she had just cause to leave her job. Because of this, I find that she is disqualified from receiving benefits.

[52] This means that the appeal is dismissed.

Audrey Mitchell

Member, General Division – Employment Insurance Section