



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *II v Canada Employment Insurance Commission*, 2019 SST 1769
Tribunal File Number: GE-19-2157

BETWEEN:

I. I.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Bernadette Syverin

HEARD ON: September 30, 2019

DATE OF DECISION: October 4, 2019

DECISION

[1] The appeal is dismissed. The Claimant has not shown just cause because he had reasonable alternatives to leaving his job when he did. This means that he is disqualified from receiving employment insurance benefits.

OVERVIEW

[2] The Claimant left his job and applied for employment insurance benefits. The Commission looked at the Claimant's reasons for leaving and decided that he voluntarily left his employment without just cause, so it was unable to pay him benefits.

THE CLAIMANT DID NOT ATTEND THE HEARING

[3] The Claimant did not attend the hearing. A hearing is allowed to go ahead without the Claimant if the Claimant received the notice of the hearing.¹ The Claimant spoke with the registrar of the Tribunal where he confirmed receipt of the notice of hearing to take place on September 30, 2019. The Claimant did not attend the hearing. Therefore, the hearing proceeded on the date that was scheduled, but without the Claimant. The Claimant did not attempt to contact the Tribunal since the hearing took place. Therefore, I made this decision based on the information on the record.

ISSUE

[4] I must decide whether the Claimant is disqualified from being paid benefits because he voluntarily left his job without just cause. To do this, I must first address the Claimant's voluntary leaving. I then have to decide whether the Claimant had just cause for leaving.

¹ Section 12 of the *Social Security Tribunal Regulations*

ANALYSIS

There is no dispute that the Claimant voluntarily left his job

[5] I accept that the Claimant voluntarily left his job. The record of employment issued by the Claimant's former employer states that the Claimant started work on October 20, 2018 for X and he quit his job on the same day after working for eight hours.² I see no evidence to contradict this.

The parties dispute that the Claimant had just cause for voluntarily leaving

[6] The parties do not agree that the Claimant had just cause for voluntarily leaving his job when he did.

[7] The *Employment Insurance Act* (law) says that you are disqualified from receiving benefits if you left your job voluntarily and you did not have just cause.³ Having a good reason for leaving a job is not enough to prove just cause. The law says that you have just cause to leave if, considering all of the circumstances, you had no reasonable alternatives to quitting your job when you did.⁴ It is up to the Claimant to prove this.⁵ The Claimant has to show that it is more likely than not that he had no reasonable alternatives but to leave when he did. When I decide this question, I have to look at all of the circumstances that existed at the time that the Claimant quit.

[8] During the initial decision process, the Claimant told the Commission that he quit his job at X because he found another job at X.⁶ Therefore, I considered the provisions of the law which states having assurance of another employment in the immediate future might constitute just cause for voluntarily leaving employment, if the Claimant had no other reasonable alternative.⁷ The Court established that the concept of "reasonable assurance of another employment assumes three things: 'reasonable assurance', 'another employment' and 'the immediate future'.⁸

² As indicated on the record of employment GD3-16.

³ This is set out at s 30 of the *Employment Insurance Act*.

⁴ *Canada (Attorney General) v White*, 2011 FCA 190, at para 3, and s 29(c) of the *Employment Insurance Act*.

⁵ *Canada (Attorney General) v White*, 2011 FCA 190, at para 3.

⁶ According to the conversation notes in GD3-20.

⁷ Paragraph 29 (c) (vi) of the *Employment Insurance Act*.

⁸ *Canada (AG) v. Lessard*, 2002 FCA 469.

In this case, I find that the Claimant did not have reasonable assurance of another employment in the immediate future when he voluntarily left his employment. This is because the Claimant says that he left his job at X on October 20, 2018, because he found employment at X; but the record of employment issued by X indicates that the Claimant did not start work until December 17, 2018, approximately two months after he left his job. Therefore, I find that when the Claimant left his job on October 20, 2018, he did not have reasonable assurance of another employment in the immediate future because his new job at X started approximately two months after he left his job.

[9] In his reconsideration request, the Claimant states that he left his job because the work was unsafe. Therefore, I took into consideration subsection 29(c) (iv) of the law which describes the circumstance where a claimant's working conditions constitute a danger to health or safety. The evidence does not demonstrate that the working conditions were dangerous to the Claimant's health or safety as the Claimant stated that he worked at X for one day during which he noticed that a coworker's working habits were unsafe.⁹ Therefore, I find that the Claimant's own health or safety was not in danger, so he cannot justify leaving his employment due to working conditions that were dangerous to his health and safety.

[10] Finally, in his reasons for appealing the decision, the Claimant states that he left his job after working one day, because he was not satisfied with the fact that he would be working on call.¹⁰ This is not accurate as the former employer told the Commission that the Claimant would have worked every weekend and the Claimant did not dispute that fact when he spoke to the Commission.¹¹ Moreover, even if the Claimant had to work on call, leaving his job for that reason does not constitute just cause for leaving because the Claimant had another reasonable alternative to leaving his job. In fact, the Claimant could have continued to work until he found a more suitable job.

⁹ As described in conversation notes in GD3-32.

¹⁰ See GD2-3.

¹¹ See GD3-32.

[11] For all of these reasons, I find that the Claimant has not demonstrated just cause for leaving his employment, having regard to all of the circumstances, as he had reasonable alternatives available to him.

CONCLUSION

[12] The appeal is dismissed. This means that the Claimant is disqualified from receiving employment insurance benefits.

Bernadette Syverin

Member, General Division - Employment Insurance Section

HEARD ON:	September 30, 2019
METHOD OF PROCEEDING:	Teleconference
APPEARANCES:	NONE