Citation: *Canada Employment Insurance Commission v SS*, 2025 SST 764

Social Security Tribunal of Canada
Appeal Division

Decision

Appellant:	Canada Employment Insurance Commission
Representative:	Jonathan Dent
Respondent:	S. S.

Decision under appeal:	General Division decision dated March 18, 2025 (GE-25-577)

Tribunal member:	Elizabeth Usprich
Type of hearing:	Teleconference
Hearing date:	June 13, 2025
Hearing participants:	Appellant's representative Respondent
Decision date:	July 25, 2025
File number:	AD-25-245

Decision

[1] The appeal is dismissed.

[2] The General Division didn't make an error of law.

Overview

[3] S. S. is the Claimant. He received a referral for training, then left his job in August 2024. He then applied for Employment Insurance (EI) benefits.

[4] The Canada Employment Insurance Commission (Commission) said the Claimant didn't have just cause for leaving his job. The Commission said the Claimant had reasonable alternatives to leaving his job and denied EI benefits. The Claimant asked the Commission to reconsider, but the decision remained the same.

[5] The Claimant then appealed to the Social Security Tribunal (Tribunal) General Division. The General Division focussed on whether the Claimant had reasonable alternatives to leaving his job.[1] The General Division decided the Claimant had no reasonable alternative but to leave his job. This meant the Claimant wouldn't be denied EI benefits for that reason.

[6] The Commission appealed the decision to the Tribunal's Appeal Division. I am denying the appeal.

Issue

[7] The issue in this appeal is: did the General Division make an error of law by failing to apply settled case law about leaving a job to go to school?

[1] See the General Division decision at paragraphs 18 to 40.

Analysis

[8] I can intervene (step in) only if the General Division made a relevant error. There are only certain errors I can consider.[2] The Commission says the General Division made an error of law.[3] Specifically, the Commission says the General Division ignored binding relevant case law.

[9] The Commission received permission to appeal to have a merits hearing. At the permission to appeal stage, the only consideration is whether there is an arguable case. That is a low threshold. That means someone only has to have an arguable case that there was an error in the General Division decision.

[10] Yet, it's different at the merits hearing for the appeal. At this stage, it must be shown that there actually **is** an error. This is a higher threshold than just being able to show you might have an arguable case. In this instance, the Commission hasn't shown there is an error of law in the General Division decision.

The General Division didn't make an error of law because it considered relevant binding cases about leaving work to go to school

[11] This case is about whether the Claimant had just cause for leaving his employment so he could attend training. The EI Act says a claimant has "just cause" for leaving their work, if they had no reasonable alternative to leaving, having regard to "all the circumstances".[4]

[12] Typically, the law says if you leave work to go to school you don't have just cause for leaving your employment.[5] This is when someone makes a personal decision to leave work so they can go back to school/training. But, sometimes the Commission, or its designate, refers a person to school.

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[2] Section 58(1) of the *Department of Employment and Social Development Act* (DESD Act) sets out the grounds of appeal.
[3] See section 58(1)(b) of the Department of *Employment and Social Development Act* (DESD Act).
[4] See section 29(c) of the *Employment Insurance Act* (EI Act).
[5] See, for example, *Canada (Attorney General) v Caron*, 2007 FCA 204 at paragraph 1.

[13] In this case, it isn't disputed that the Claimant was referred to training by a designated authority.[6] As noted by the General Division, a referral to training only establishes that a claimant is "available" for work under EI law while they're going to school.[7]

[14] Decision-makers must consider a referral to school as a relevant circumstance when determining whether the person had just cause for leaving their employment. So, a claimant has to show they had no reasonable alternative, considering all of the circumstances, but to leave their job.

[15] The Commission argues the Federal Court of Appeal (FCA) has consistently found that voluntarily leaving one's job to attend a course doesn't amount to just cause for leaving one's employment under the EI Act.[8] The Commission says if one has a referral to school, but no authorization to quit, it means a person doesn't have just cause.[9] It says, in those circumstances, the person made a personal decision to quit and is not entitled to EI benefits.

[16] I looked at the cases the Commission cited. I don't agree with the Commission about what they say. Several cases make it clear that unless a person is referred to training by the Commission, a return to school doesn't give a person just cause.[10]

[17] The first case the Commission cites is *Caron*.[11] The FCA in *Caron* says the following:

> The outcome of this case is governed by the settled jurisprudence of our Court that a return to school, including a training course, is not just cause for leaving an employment within the meaning of

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[6] See section 25 of the *Employment Insurance Act* (EI Act). See also the General Division decision at paragraphs 14 to 16. See also AD3-4 of the Commission's arguments to the Appeal Division.
[7] See the General Division decision at paragraph 17. See also section 25 of the EI Act.
[8] See AD3-4 of the Commission's arguments to the Appeal Division. The Commission relies on *Lakic v Canada (Attorney General)*, 2013 FCA 4; *Canada (Attorney General) v Macleod*, 2010 FCA 301; *Canada (Attorney General) v Bois*, 2001 FCA 175; *Canada (Attorney General) v Connell*, 2003 FCA 144 and *Canada (Attorney General) v Shaw*, 2002 FCA 325.
[9] See AD3-4 of the Commission's arguments to the Appeal Division.
[10] See, for example, *Canada (Attorney General) v Lamonde*, 2006 FCA 44; *Canada (Attorney General) v Beaulieu*, 2008 FCA 133 and *Canada (Attorney General) v Lessard*, 2002 FCA 469.
[11] See *Canada (Attorney General) v Caron*, 2007 FCA 204 at paragraph 1. The General Division also referred to this case. See the General Division decision at paragraph 14.

> sections 29 and 30 of the *Employment Insurance Act*, S.C. 1996, c. 23 (Act): see *Canada (Attorney General) v. Barnett,* [1996] F.C.J. No. 1289; *Canada (Attorney General) v. Bois*, 2001 FCA 175; *Canada (Attorney General) v. Connell*, 2003 FCA 144; *Canada (Attorney General) v. Lessard*, 2002 FCA 469; *Canada (Attorney General) v. Martel* (FCA), [1994] F.C.J. No. 1458; and *Canada (Attorney General) v. Traynor,* [1995] F.C.J. No. 836.

[18] On its face, it seems to support what the Commission is saying. However, the cases *Caron* cites are important. In *Barnett*, *Bois*, *Connell*, and *Traynor*, there is no mention of whether the claimants had referrals by the Commission to go to school. The cases all only focus on that the claimants left their jobs to go to school.

[19] In *Lessard*, the FCA specifically notes, "It was assumed in the case at bar that the training course was not a course or program to which the Commission had referred the defendant under section 25 of the Act."[12]

[20] In *Lessard*, the FCA also said:

> It is settled law in this Court that the fact of a claimant leaving employment voluntarily to go back to school or to take a training course is not just cause within the meaning of section 28 of the old Unemployment Insurance Act or section 29 of the Employment Insurance Act **unless he has been authorized to do so by the Commission** [emphasis added].[13]

[21] In *Martel*, the FCA notes that the claimant in that case didn't have a referral. It explained that there is an exception under the law[14] where a claimant is deemed to be available while attending a course. It said, "The training course taken by the respondent in the case at bar did not meet these criteria."

[22] The FCA also says in *Martel*:

> An employee who voluntarily leaves his employment to take a training course **which is not authorized by the Commission** [emphasis added] certainly has an excellent reason for doing so in personal terms; but we feel it is contrary to the very principles

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[12] See *Canada (Attorney General) v Lessard*, 2002 FCA 469 at paragraph 5.
[13] See *Canada (Attorney General) v Lessard*, 2002 FCA 469 at paragraph 20.
[14] This is section 25 of the EI Act, but at the time of the Martel case was section 26.

> underlying the unemployment insurance system for that employee to be able to impose the economic burden of his decision on contributors to the fund.[15]

[23] The *Caron* case is short and doesn't give a full explanation of the facts in that case. When the cases relied on in *Caron* are explored, it is clear the cases have more in common. The cases fall into two groups. Those that say nothing about a referral to training. And those that specifically restrict their discussion to a person who left work to go to school **without** a referral.

[24] There are additional FCA cases on this subject that provide further guidance. For example, in *Lamonde* the FCA said,

> This Court's case law on the point is well settled: **except** [emphasis added] for programs authorized by the Employment Commission (the Commission), a return to school does not constitute justification under paragraph 29(c), and accordingly for the purposes of sections 30 to 33 of the Act: see e.g. Attorney General of Canada v. Bédard, 2004 FCA 21, at paragraph 8.[16]

[25] In *Lakic*, the FCA noted the person had quit her job to take training. She did this on her own, and **didn't** have a referral from the Commission or a designated authority.[17]

[26] The Commission also refers to the FCA decision of *Laughland*. Specifically, that having good cause, isn't the same as just cause.[18] I agree this has been a long-standing principle. Essentially, having a good reason for why you may have left a job doesn't mean you will have just cause for leaving. But the FCA also says, "Moreover, leaving voluntarily employment **to take a training course not authorized by the Commission** [emphasis added] is not 'just cause' within the meaning of section 29."[19]

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[15] See *Canada (Attorney General) v. Martel* (1994), 175 N.R. 275 at paragraph 12. This was affirmed by the FCA in *Canada (Attorney General) v Beaulieu*, 2008 FCA 133 at paragraph 13.
[16] See *Canada (Attorney General) v Lamonde*, 2006 FCA 44 at paragraph 7.
[17] See *Lakic v Canada (Attorney General)*, 2013 FCA 4 at paragraph 3.
[18] See *Canada (Attorney General) v Laughland*, 2003 FCA 129 at paragraph 9. See also the Commission's arguments at AD3-4. The General Division also acknowledged this in their decision at paragraph 11.
[19] See *Canada (Attorney General) v Laughland*, 2003 FCA 129 at paragraph 12.

[27] Where there is no referral to school by the Commission,[20] the courts have repeatedly said there is no just cause for quitting a job. But I'm not aware of a binding authority, nor did the Commission provide one, that says if someone is referred to training it still means, on its face, they don't have just cause. In other words, the entire principle isn't that any time someone goes to school they don't have just cause.

[28] Instead, a decision-maker has to assess if a person had a referral to go to school by the Commission, at the time they leave their job. If there is no referral, the FCA is clear that just cause for leaving can't be found. When there is a referral to training, the decision-maker considers that referral as a circumstance that existed at the time of leaving. Then the decision-maker must decide, considering all of the circumstances, whether the claimant had no reasonable alternative but to leave their employment when they did.

– **The General Division applied the correct legal test**

[29] The Commission agrees the General Division identified and applied the correct legal test.[21] The Commission says the General Division's error is that binding precedents weren't applied to the facts of the case.

– **The General Division applied settled case law**

[30] The General Division accepted as fact that the Claimant had been referred to training. The General Division proceeded to analyze whether the Claimant had just cause for leaving. It specified that just cause isn't the same as a good reason.[22] It said that it had to consider all the circumstances, and decide if the Claimant had no reasonable alternative to quitting his job when he did.[23]

[31] The General Division noted the FCA says if a person quits a job, without a referral then the person wouldn't have just cause for leaving the job.[24] The General

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[20] Or by the Commission's designated authority.
[21] See the General Division decision at paragraphs 11 to 13.
[22] See the General Division decision at paragraph 11.
[23] See the General Division decision at paragraph 12.
[24] See the General Division decision at paragraph 14 where the General Division refers to *Canada (Attorney General) v Caron*, 2007 FCA 204.

Division then went through the Claimant's circumstances that existed when he left his job.[25] The General Division said it was one of the Claimant's circumstances that he had a referral to school.[26] Ultimately, the General Division applied the law to the facts of the case and decided the Claimant had no reasonable alternative to quitting his job.[27]

[32] The Appeal Division can't consider whether there is an error with how the General Division applied the law to the facts of this case.[28] That is an error of mixed fact and law.

[33] The Commission hasn't argued that the General Division misunderstood, overlooked or ignored any facts. The Commission's argument is the General Division should have decided, based on case law, that because the Claimant went to school it was a personal choice.

[34] I don't agree with the Commission. Binding precedents have limited their discussion to those who don't have referrals to training. The case law says if someone makes a choice to go to school, without a referral, then just cause for leaving can't be proven. But, as is the case here, where a person **is** referred to training by the Commission, then it is a relevant circumstance that has to be considered.

[35] The referral to training didn't include an authorization to quit. The Commission couldn't point to any legislative authority that requires a person to have an authorization to quit. The Claimant left his work and started his schooling a short time later.[29] The Claimant says he wasn't made aware he should have gotten an authorization to quit, until after the course had started. Once he learned the Commission wanted this, he reached out to the designated authority. He was told that if he needed an authorization to quit, it needed to be requested before.[30]

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[25] See the General Division decision at paragraphs 18 to 27.
[26] See the General Division decision at paragraph 17.
[27] See the General Division decision at paragraphs 28 to 40.
[28] See *Garvey v Attorney General of Canada*, 2018 FCA 118; *Cameron v Canada (Attorney General)*, 2018 FCA 100; and *Quadir* v *Attorney General of Canada*, 2018 FCA 21.
[29] See the General Division decision at paragraphs 24 and 25.
[30] See GD3-34 of the Commission's Reconsideration File.

[36] The General Division dealt with this.[31] There is no legal requirement that a designated authority determine if they're authorizing a person to quit. The referral to training is a relevant circumstance that must be considered in the just cause analysis. So, the analysis is whether a claimant had no reasonable alternative to leaving when they did, considering all the circumstances.

[37] That is exactly what the General Division proceeded to do. It analyzed the circumstances in the case, and applied the law to the facts of the case. It analyzed whether the Claimant had a reasonable alternative to leaving his job. The General Division decided the Claimant had no reasonable alternative.

[38] As I had previously noted, the Appeal Division can't intervene on questions of mixed fact and law. So, if the facts are correct and the law is correct it isn't up to the Appeal Division to reweigh the evidence to come up with a different conclusion.

[39] I don't find there is an error that allows me to intervene.[32]

Conclusion

[40] The appeal is dismissed.

[41] The General Division didn't make an error of law.

Elizabeth Usprich
Member, Appeal Division

[31] See the General Division decision at paragraphs 20, 35, and 36.
[32] See *Page v Canada (Attorney General)*, 2023 FCA 169 at paragraph 77.