Citation: *MS v Canada Employment Insurance Commission*, 2025 SST 883

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

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

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (issued by Service Canada on December 4, 2024)

Tribunal member:	Gerry McCarthy
Type of hearing:	Videoconference
Hearing date:	July 22, 2025
Hearing participant:	Appellant
Decision date:	July 23, 2025
File number:	GE-25-2068

Decision

Issue 1 (Voluntary Leave)

[1] The appeal is allowed.

[2] The Appellant has shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Appellant had just cause because he had no reasonable alternative to leaving. This means he isn't disqualified from receiving Employment Insurance (EI) benefits.

Issue 2 (Availability for Work)

[3] The appeal is allowed.

[4] The Appellant has shown that he was available for work from August 26, 2024. This means that he isn't disentitled from receiving EI benefits from August 26, 2024. So, the Appellant may be entitled to benefits.

Overview

Issue 1 (Voluntary Leaving)

[5] The Appellant left his job at "X" on June 20, 2024, and applied for EI benefits on August 28, 2024. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. The Commission decided the Appellant voluntarily left (or chose to quit) his job without just cause, so it wasn't able to pay him benefits.

[6] I have to decide whether the Appellant has proven that he had no reasonable alternative to leaving his job.

[7] The Commission says that, instead of leaving when he did, the Appellant could have looked for temporary employment to bridge the gap while awaiting his license approval.

[8] The Appellant disagrees and says he had reasonable assurance of another employment in the immediate future. Specifically, the Appellant says after he completed his 12-week “Practice Ready Ontario” program he expected to be working under supervision as a doctor in Ontario.

Issue 2 (Availability for Work)

[9] The Commission decided the Appellant was disentitled from receiving EI regular benefits from August 26, 2024, because he wasn’t available for work. A claimant has to be available for work to get EI regular benefits. Availability is an ongoing requirement. This means that a claimant has to be searching for a job.

[10] I must decide whether the Appellant has proven that he was available for work. The Appellant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he was available for work.

[11] The Commission says the Appellant wasn’t available because he wasn’t actively seeking employment.

[12] The Appellant disagrees and says after August 25, 2024, he was looking for work as a family doctor in Ottawa, Parry Sound, and Toronto. He further says he was looking for employment in his previous field as a clinical and surgical assistant.

Issue 1 (Voluntary Leave)

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

[14] 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 the Appellant voluntarily left

[15] I accept that the Appellant voluntarily left his job. The Appellant agrees that he quit his job, and his last day paid was June 20, 2024. I see no evidence to contradict this.

The parties don't agree the Appellant had just cause

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

[17] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.[1] Having a good reason for leaving a job isn't enough to prove just cause.

[18] 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.[2]

[19] 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.[3]

[20] 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.[4]

[21] 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.[5]

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[1] Section 30 of the *Employment Insurance Act* (EI Act) explains this.
[2] See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 3; and section 29(c) of the EI Act.
[3] See *Canada (Attorney General) v White*, 2011 FCA 190 at paragraph 4.
[4] See section 29(c) of the EI Act.
[5] See section 29(c) of the EI Act.

The circumstances that existed when the Appellant quit

[22] The Appellant says that one of the circumstances set out in the law applies. He says he had reasonable assurance of another employment in the immediate future.

[23] I will now examine the Appellant's testimony on this matter.

[24] Specifically, the Appellant testified that he left his job with "X" to enter the "Practice Ready Ontario" program on June 3, 2024. The Appellant testified his goal was to complete the 12-week program and become a family doctor in Ontario.

[25] The Appellant further explained that the "Practice Ready Ontario" program was 12-weeks long and the pay was $2,500.00 bi-weekly. The Appellant further explained that when he successfully completed the program he was to progress to a position as a self-employed doctor under the supervision of a doctor. However, the Appellant testified that when he completed the program on August 25, 2024, the supervising doctor wasn't available to supervise him. So, the Appellant explained that he had to look for other self-employed jobs as a doctor.

[26] The Appellant also testified that on October 28, 2024, he secured a job as a family doctor in X, Ontario.

[27] Under the circumstances, I'm willing to accept the Appellant had reasonable assurance another employment in the immediate future for the following reasons:

[28] First: There was a legitimate expectation that upon completing the "Practice Ready Ontario" program the Appellant would secure a position as a self-employed doctor. I recognize the Commission submitted that the Appellant left his job to pursue a paid training program. However, the Appellant wasn't a student in the training program. Instead, the Appellant was specifically performing "Clinical Field Assessment" work and progressing to become a family doctor.

[29] Second: The Appellant was immediately prevented from securing a position as a family doctor after completing the "Practice Ready Ontario" program. The reason the Appellant was prevented from securing a position was owing to a supervising doctor

that wasn't able to supervise him. In short, there was a last-minute disruption that prevented the Appellant from starting work as a family doctor after August 25, 2024.

[30] Third: The Appellant was paid $2,500.00 on a bi-weekly basis by the "Practice Ready Ontario" program. The matter of whether the "Practice Ready Ontario" program would have produced insurable hours for the Appellant was likely something to be determined by the Canada Revenue Agency (CRA). Nevertheless, I accept that participating in the "Practice Ready Ontario" program was "employment."

[31] In summary: The circumstances that existed when the Appellant quit were that he had reasonable assurance of other employment in the immediate future.

The Appellant had no reasonable alternative

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

[33] The Appellant says he had no reasonable alternative because he had been a doctor in Iran for five-years and the "Practice Ready Ontario" program enabled him to become a family doctor in Ontario.

[34] The Commission disagrees and says the Appellant could have looked for temporary employment to bridge the gap while awaiting his license approval.

[35] I find the Appellant had no reasonable alternative for the following reasons:

[36] First: The "Practice Ready Ontario" program provided the Appellant with paid employment and legitimately lead him to secure a position as a family doctor in Ontario. I recognize the Commission submitted the Appellant could have looked for temporary employment while he awaited his license approval. However, the "Practice Ready Ontario" program was a full-time endeavour that wouldn't allow the Appellant time for "temporary employment." Furthermore, the Appellant was paid $2,500.00 on a bi-weekly basis while participating in the 12-week "Practice Ready Ontario" program.

[37] Second: The Appellant was prevented from progressing into a self-employed job as a family doctor, because a supervising doctor was unable to supervise him. I recognize the Commission submitted the Appellant's unemployment was a result of his own personal decision to pursue a new career path rather than due to any involuntary circumstance. However, the Appellant was only prevented from immediately securing a job as a family doctor owing to a supervising doctor that was unable to supervise him. On this matter, I'm unable to conclude the Appellant's brief period of unemployment was the result of his own "personal decision."

[38] In summary: Considering the circumstances that existed when the Appellant quit, the Appellant had no reasonable alternative to leaving when he did, for the reasons set out above.

[39] This means the Appellant had just cause for leaving his job.

Issue 2 (Availability for Work)

[40] Was the Appellant available for work?

Analysis

[41] Two different sections of the law require claimants to show that they are available for work. The Commission decided the Appellant was disentitled under both of these sections. So, he has to meet the criteria of both sections to get benefits.

[42] First, the *Employment Insurance Act* (EI Act) says that a claimant has to prove that they are making "reasonable and customary efforts" to find a suitable job.[6] The *Employment Insurance Regulations* (EI Regulations) give criteria that help explain what "reasonable and customary efforts" mean.[7] I will look at those criteria below.

[43] Second, the EI Act says that a claimant has to prove that they are "capable of and available for work" but aren't able to find a suitable job.[8] Case law gives three

[6] See section 50(8) of the *Employment Insurance Act* (EI Act).
[7] See section 9.001 of the *Employment Insurance Regulations* (EI Regulations).
[8] See section 18(1)(a) of the Act.

things a claimant has to prove to show that they are "available" in this sense.[9] I will look at those factors below.

[44] The Commission decided the Appellant was disentitled from receiving benefits because he wasn't available for work based on these two sections of the law.

[45] I will now consider these two sections myself to determine whether the Appellant was available for work.

Reasonable and customary efforts to find a job

[46] The law sets out criteria for me to consider when deciding whether the Appellant's efforts were reasonable and customary.[10] I have to look at whether his efforts were sustained and whether they were directed toward finding a suitable job. In other words, the Appellant has to have kept trying to find a suitable job.

[47] I also have to consider the Appellant's efforts to find a job. The Regulations list nine job-search activities I have to consider. Some examples of those activities are the following:[11]

- assessing employment opportunities
- contacting employers who may be hiring
- applying for jobs

[48] The Commission says the Appellant didn't do enough to try to find a job. Specifically, the Commission says that until receiving his license in Ontario the Appellant was unable to accept any immediate employment in his preferred field and failed to show any willingness to broaden his job search in other sectors.

[49] The Appellant disagrees. He says he was seeking work as a self-employed doctor in Ottawa, Parry Sound, and Toronto. The Appellant also testified he was looking for work in his previous field as a clinical and surgical assistant. The Appellant says that his efforts were enough to prove that he was available for work.

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[9] See *Faucher v Canada Employment and Immigration Commission*, A-56-96 and A-57-96.
[10] See section 9.001 of the EI Regulations.
[11] See section 9.001 of the EI Regulations.

[50] I find the Appellant was making reasonable and customary efforts to find work for the following reasons:

[51] First: The Appellant was attempting to secure a job as a family doctor in Ottawa, Parry Sound, and Toronto after August 25, 2024. I recognize the Commission argued the Appellant was unable to accept any immediate employment in his preferred field. However, the Appellant completed the 12-week "Practice Ready Ontario" program and was able to accept immediate employment in his preferred field as a family doctor.

[52] Second: The Appellant searched for work in his previous field as a clinical and surgical assistant. I recognize the Commission submitted the Appellant failed to show any willingness to broaden his job search in other sectors. Nevertheless, I'm wiling to accept the Appellant broadened his job search when he looked at positions as a clinical and surgical assistant.

[53] In summary: The Appellant has proven that his efforts to find a job were reasonable and customary.

Capable of and available for work

[54] Case law sets out three factors for me to consider when deciding whether the Appellant was capable of and available for work but unable to find a suitable job. The Appellant has to prove the following three things:[12]

a) He wanted to go back to work as soon as a suitable job was available.

b) He has made efforts to find a suitable job.

c) He didn't set personal conditions that might have unduly (in other words, overly) limited his chances of going back to work.

[12] These three factors appear in *Faucher v Canada Employment and Immigration Commission*, A-56-96 and A-57-96. This decision paraphrases those three factors for plain language.

[55] When I consider each of these factors, I have to look at the Appellant's attitude and conduct.[13]

Wanting to go back to work

[56] The Appellant has shown that he wanted to go back to work as soon as a suitable job was available. I make this finding because the Appellant was progressing toward a job as a self-employed doctor after August 25, 2024, but was prevented from securing a position owing to a supervising doctor being unable to supervise him.

[57] The Appellant also confirmed he secured a job as a self-employed doctor in X on October 28, 2024.

Making efforts to find a suitable job

[58] The Appellant has made enough effort to find a suitable job.

[59] I have considered the list of job-search activities given above in deciding this second factor. For this factor, that list is for guidance only.[14]

[60] The Appellant's efforts to find a new job included trying to find a job as a family doctor in Ottawa, Parry Sound, and Toronto. Furthermore, the Appellant broadened his job search to include work as a clinical and surgical assistant. I explained these reasons above when looking at whether the Appellant has made reasonable and customary efforts to find a job.

[61] Those efforts were enough to meet the requirements of this second factor, because the Appellant was looking for work as a family doctor and further searching for work as a clinical and surgical assistant.

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[13] Two decisions from case law set out this requirement. Those decisions are *Canada (Attorney General) v Whiffen*, A-1472-92; and *Carpentier v Canada (Attorney General)*, A-474-97.
[14] I am not bound by the list of job-search activities in deciding this second factor. Here, I can use the list for guidance only.

Unduly limiting chances of going back to work

[62] The Appellant didn't set personal conditions that might have unduly limited his chances of going back to work.

[63] The Appellant says he hasn't done this because he was looking for a position as a family doctor and eventually secured a job on October 28, 2024.

[64] The Commission says the Appellant was unable to accept any immediate employment in his preferred field.

[65] I find the Appellant didn't unduly limit his chances of going back to work, because he was able to start work as a family doctor (after August 25, 2024) and was actively searching for employment.

[66] I realize the Commission submitted the Appellant was unable to accept any immediate employment in his preferred field. However, there must have been a misunderstanding between the Commission and the Appellant on this matter. As mentioned, the Appellant was ready to proceed to a job as a family doctor after August 25, 2024, but a supervising doctor was unable to supervise him. Nevertheless, the Appellant was still looking for work (after August 25, 2024) as a family doctor and searching for employment as a clinical and surgical assistant.

So, was the Appellant capable of and available for work?

[67] Based on my findings on the three factors, I find the Appellant has shown that he was capable of and available for work but unable to find a suitable job from August 26, 2024.

Conclusion

Issue 1 (Voluntary Leave)

[68] I find the Appellant isn't disqualified from receiving benefits.

[69] This means the appeal is allowed.

Issue 2 (Availability for Work)

[70] The Appellant has shown that he was available for work within the meaning of the law. Because of this, I find the Appellant isn't disentitled from receiving EI benefits from August 26, 2024. So, the Appellant may be entitled to benefits.

[71] This means the appeal is allowed.

Gerry McCarthy
Member, General Division – Employment Insurance Section