



[TRANSLATION]

Citation: *CM v Canada Employment Insurance Commission*, 2024 SST 1491

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

**Decision**

**Appellant:** C. M.

**Respondent:** Canada Employment Insurance Commission

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**Decision under appeal:** Canada Employment Insurance Commission  
reconsideration decision (641354) dated February 23,  
2024 (issued by Service Canada)

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**Tribunal member:** Josée Langlois

**Type of hearing:** In person

**Hearing date:** May 9, 2024

**Hearing participant:** Appellant

**Decision date:** May 21, 2024

**File numbers:** GE-24-1233 and GE-24-1326

## Decision

[1] The appeal is dismissed.

[2] The Appellant didn't have just cause (in other words, a reason the law accepts) for voluntarily leaving her job on March 7, 2023. She isn't entitled to Employment Insurance (EI) benefits from March 7, 2023, to March 17, 2023—when she would have stopped working because there was a shortage of work.

## Overview

[3] On January 10, 2023, the Appellant applied for EI regular benefits. She said that she had stopped working on December 2, 2022, because there was a shortage of work.

[4] The Record of Employment (ROE) that the employer issued shows that the Appellant voluntarily left her job at the Relais Camping de la Montagne and that she last worked on February 24, 2023.

[5] On February 23, 2024, 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 and that she had reasonable alternatives to leaving when she did. Because of this, it wasn't able to pay her benefits for the period from March 7, 2023, to March 17, 2023. After this time, she would have stopped working because there was a shortage of work.

[6] The Commission had initially imposed a monetary penalty of \$682 for a false or misleading statement. On reconsideration, it rescinded the monetary penalty and imposed a non-monetary penalty—a warning letter.

[7] At the start of the hearing, the Appellant said that she wasn't challenging the warning letter or that she had voluntarily left on March 7, 2023. But the statements of account received from the Commission weren't up to date—it had withheld her benefits.

[8] Since the Appellant isn't challenging the non-monetary penalty being imposed, there is no need to analyze it. But she did say at the end of the hearing that she was

challenging the voluntary leaving [translation] “a little bit.” This was because the employer had posted a message on social media changing the work schedules.

[9] While I understand that the most important thing for the Appellant is that her statement of account be updated and that she be paid the benefits that she is entitled to, I will decide whether she voluntarily left her job. If she did, I will then decide whether she has proven that she had no reasonable alternative to leaving.

## **Issues**

[10] Is the Appellant disqualified from receiving benefits because she voluntarily left her job without just cause?

[11] To answer this, I first have to address the Appellant’s voluntary leaving. I then have to decide whether she had just cause for leaving. To do this, I have to answer the question below.

[12] Did the Appellant have any alternatives to leaving her job on March 7, 2023?

## **Analysis**

### **Voluntary leaving**

#### **The parties agree that the Appellant voluntarily left**

[13] The Appellant initially told the Commission that she had stopped working because there was a shortage of work.

[14] The employer sent the Commission a ROE saying that the Appellant had voluntarily left her job and that she had last worked on February 24, 2023.

[15] At the hearing, the Appellant admitted that she had voluntarily left her job on March 7, 2023.

[16] The Commission is also of the view that the Appellant voluntarily left her job.

[17] I accept that the Appellant voluntarily left her job. I am now going to decide whether she had just cause.

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

[18] The *Employment Insurance Act* (Act) says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.<sup>1</sup> Having good cause (in other words, a good reason) for leaving a job isn't enough to prove just cause.

[19] 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>2</sup>

[20] It is up to the Appellant to prove that she had just cause.<sup>3</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 she quit.

[21] On June 12, 2023, the Appellant told the Commission that she hadn't made efforts to find a job because she expected to go back to work in April.

[22] She said that she was a waitress at a snowmobile lodge on Wednesdays and Thursdays. She voluntarily left her job because the owner's daughter had posted on Facebook that she was taking over her hours—that is, her schedule. She spoke with the employer, and it told her that it had to [translate] "cut her hours" because there wasn't enough work. The employer was still looking for someone to work evenings. Based on her schedule, she had two days of work left. She didn't go in to work them.

[23] On August 15, 2023, the Appellant told a Commission agent that she had found out through Facebook that she was losing her job, and she described it as [translation]

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<sup>1</sup> See section 30 of the *Employment Insurance Act* (Act).

<sup>2</sup> See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

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

“pretty normal.” When the Commission agent asked her about it, the Appellant said that the message wasn’t directed at her personally, but that the company’s Facebook page said that the season would end earlier than expected because of the weather. The employer didn’t give her any notice, even though she normally would have stopped working between March 15, 2023, and April 1, 2023.

[24] She says that when she saw the Facebook post, she was angry and decided not to work the last two shifts that she was scheduled for.

[25] At the hearing, the Appellant said that she was upset about this situation, but that the employer had given her other shifts to work.

[26] The Appellant mainly challenges the fact that the Commission withheld benefits to pay the penalty that it had initially imposed. She argues that the situation still hasn’t been resolved.

[27] The Commission says that the Appellant didn’t try all reasonable alternatives before leaving her job. She could have talked with the employer to find an alternative, and she could also have found another job before leaving the one she had. The Appellant left her job too soon—the employer still had work to give her.

[28] I have to make this decision on a balance of probabilities. To do this, I have to look at all of the circumstances that led the Appellant to leave her job.

[29] At the time she left her job, the Appellant had read a message intended for all employees, saying that her schedule had been changed and that the next season would be ending. I understand that she didn’t like how the employer told employees that the season would soon be ending.

[30] But, as she said at the hearing, the employer wasn’t laying her off immediately.

[31] Under the Act, I would say that the Appellant left her job too soon at that point. To be able to receive benefits after voluntarily leaving her job, she has to show that she

tried all available alternatives. She also has to show that she had no reasonable alternative to voluntarily leaving her job.

[32] One of these alternatives was to talk to the employer about the situation. The facts show that the employer had other shifts to give her and that the season wasn't yet over. It was scheduled to end on March 17, 2023.

[33] To show that she had just cause for leaving her job, the Appellant needed to try all the alternatives available to her—even though she was unhappy that the employer had taken away the shifts she usually worked.

[34] The employer confirmed to a Commission agent that the Appellant left her job after all employees were told that hours would be reduced. The manager said that business depended largely on snow since customers came mainly for snowmobiling. She usually worked two days a week and didn't want to work more than that.

[35] The manager at the employer also said that the Appellant contacted her on March 7, 2023, to find out whether she was working the next day. The employer allegedly told her that she was scheduled to work on March 8 and 9, 2023. The employer said that she voluntarily left her job and didn't show up to work. She was supposed to work until the end of March, but the business closed earlier than expected because of the weather.

[36] A text message exchange, dated March 7, 2023, shows that the Appellant contacted her employer to ask if she was working [translation] "tomorrow and Thursday." The manager replied "yes." The Appellant then wrote that she would not be "coming in" that week because she had found "something else." The manager then told her that she was disappointed and that she could also work next week.

[37] So, I find that the Appellant didn't show that she had tried all the alternatives available to her, since she didn't contact the employer on February 24, 2023, to make sure that she understood the message posted on Facebook. She voluntarily left her job on March 7, 2023, without having tried the alternatives available to her.

[38] Naturally, the Appellant expected to be laid off. But the facts show that, as of March 7, 2023, she still had the opportunity to work and that the season wasn't scheduled to end before March 17, 2023.

[39] In addition, in most cases, you have to show that you made efforts to find another job before making a unilateral decision to leave the one you have.<sup>4</sup> In the Appellant's case, the facts show that she was unhappy with the employer's message and that she left her job too soon on March 7, 2023—even though the employer still had work to give her.

[40] The Appellant also said that she hadn't made efforts to find another job before leaving the one she had because she expected to go back to work in April.

[41] In my view, the Appellant had alternatives to voluntarily leaving her job on March 7, 2023. That day, she asked whether she was working the next day. She left her job without working the shifts assigned to her and without finding an alternative. She decided to stop going to work, even though the season wasn't over. By unilaterally leaving her job on March 7, 2023, the Appellant didn't show that she had tried all reasonable alternatives when she left her job.

[42] For this reason, I find that the Appellant didn't have just cause for leaving her job.

### **Leaving a job three weeks before it ends**

[43] Even though the Appellant expected to stop working because the snowmobile season was ending, she hadn't been laid off when she decided to stop going to work on February 24, 2023. Even though she had seen a message on the employer's Facebook page saying that there was a change in schedule, the employer was still able to give her other shifts.

[44] So, the Appellant was unhappy about the announcement posted on social media. Even though the message didn't say that she was being laid off and wasn't addressed

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<sup>4</sup> See *Canada (Attorney General) v White*, 2011 FCA 190.

to her personally, she decided to stop going to work. On March 7, 2023, she texted the manager at the employer saying that she was leaving her job, and she asked that her termination of employment be given to her.

[45] But the Commission considered that the Appellant would have stopped working on March 17, 2023, because there was a shortage of work. It imposed a disentitlement only from March 7, 2023, to March 17, 2023.

[46] The Act says that, if you voluntarily leave your job without just cause within the three weeks before your employment period ends, you aren't entitled to receive EI benefits—but only until your job is scheduled to end.<sup>5</sup>

[47] This situation applies to the Appellant because the employer decided to shorten the season, given the weather. Even though she hadn't received an official notice saying that she would be laid off, the message that the employer posted on the company's Facebook page said that the season would be ending soon, given the weather.

[48] So, the Commission correctly imposed a disentitlement from March 7, 2023, to March 17, 2023, allowing the Appellant to receive benefits from March 18, 2023.

[49] As she mentioned at the hearing, the Appellant received many statements of account that weren't up to date. The Commission didn't tell her how it would pay her back the penalty amount that it had rescinded and withheld from her benefits. It would be appropriate for the Commission to send her a detailed statement of account showing the current and future benefits—once the file has been updated.

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<sup>5</sup> See section 33 of the Act.



## **Conclusion**

[50] The Appellant didn't have just cause for voluntarily leaving her job on March 7, 2023. Because of this, she isn't entitled to benefits from March 7, 2023, to March 17, 2023—in accordance with section 33 of the Act.

Josée Langlois

Member, General Division – Employment Insurance Section