Citation: *IG v Canada Employment Insurance Commission*, 2026 SST 199

Social Security Tribunal of Canada
Appeal Division

Decision

Appellant:	I. G.
Respondent:	Canada Employment Insurance Commission
Representative:	Isabelle Thiffault

Decision under appeal:	General Division decision dated January 14, 2026 (GE-25-3478)

Tribunal member:	Stephen Bergen
Type of hearing:	Videoconference
Hearing date:	March 11, 2026
Hearing participants:	Appellant Respondent's representative
Decision date:	March 13, 2026
File number:	AD-26-53

Decision

[1] I am allowing the appeal. The General Division made errors of law. I have corrected the errors and made the decision the General Division should have made. The Claimant did not voluntarily leave his employment without just cause.

Overview

[2] I. G. is the Appellant. I will call him the Claimant because this application is about his claim for Employment Insurance (EI) benefits. The Respondent is the Canada Employment Insurance Commission, which I will refer to as the Commission.

[3] The Claimant became sick while he was on vacation. When he was released from the hospital, his employment agency considered him to have quit his job. The Claimant claimed EI benefits, but the Commission said he could not receive benefits because he had voluntarily left his employment without just cause.

[4] The Claimant disagreed that he left voluntarily. He said he told his employer he was ready to return to work but that they had no work to give him. He asked the Commission to reconsider.

[5] The Commission would not change its decision, so the Claimant appealed to the General Division of the Social Security Tribunal. The General Division agreed with the Commission and dismissed the Claimant's appeal. The Claimant is now appealing to the Appeal Division.

[6] The appeal is allowed. The General Division made errors of law. I have corrected those errors and made the decision that it should have made. The Claimant did not voluntarily leave his employment, so he cannot be disqualified for leaving his job without just cause.

The parties agree on the outcome of the appeal

[7] The Commission concedes that the General Division made errors of law and fact and that I should correct those errors. It concedes that the Claimant did not leave his job voluntarily, and asks that I find accordingly.

[8] I told the parties that we could discuss that concession and, if they were agreed on the terms, I would deem their agreement to be the result of a settlement conference. I told the parties that, if either party were concerned about the terms of the Commission's concession, we could have an off-the-record discussion. As it turned out, this was not necessary.

[9] The Claimant agreed with the Commission's concessions. He accepted that the General Division had made errors and I should make the decision the General Division should have made. He agreed that I should decide that he did not leave his job voluntarily.

I accept the proposed outcome

[10] The General Division's made an error of law because its reasons were inadequate. It found against the Claimant's credibility without justifying why it did so.

[11] The employer's and the Claimant's evidence did not always agree. The employer told the Commission that the Claimant did not know when he would be able to return to work, and that it did not tell the Claimant that it had no work for him. The Claimant said he told the employer he was ready to come back to work, and that the employer said there was no work. The employer also told the Commission that it asked the Claimant for a new medical note to confirm the Claimant was cleared to return to work. The Claimant denied this.

[12] The General Division found that the employer did request a medical note. It was also relevant whether the claimant told the employer he was ready for work and whether the employer said it had no work available. The General Division made no specific finding on these facts.

[13] Instead, the General Division stated that it preferred the employer's evidence where(ever) it disagreed with the Claimant's evidence. It found that the employer's evidence was more "credible and logical."

[14] The General Division also stated that it would discuss the specifics of its credibility findings. However, its discussion says nothing about why it found the employer's evidence to be more credible and logical.

[15] The General Division's reasons were so inadequate as to constitute an error of law.

[16] In addition, the General Division made a finding of fact that did not follow rationally from the evidence. It found that the Claimant voluntarily left his employment because he did not provide a medical note clearing his return to work.

[17] As I said in my leave decision, it is not obvious why the Claimant's failure to provide a medical note means that he was choosing to leave his job. The Claimant actually denied that the employer asked him for proof of medical clearance but, even if the employer asked for proof, the employer said only that he did not provide it.

[18] There was no evidence that the Claimant willfully refused to provide the medical clearance. The Claimant may have been unable to provide the note, or provide it when the employe wanted it. There was also no evidence that the Claimant was told that the note was so important he would not be allowed to return to work without it.

[19] The finding that the Claimant chose to leave his job does not follow rationally from evidence that he did not provide a medical clearance note.

My decision

[20] The question before the General Division was "Did the Claimant have a choice to stay or to leave." If the Claimant could have stayed but left, then he voluntarily left his

employment.[1] The Commission had to show that it was more likely than not that the Claimant had a choice.

[21] The Commission did not satisfy that burden, as it now concedes. I agree with the Commission that there is no good reason for preferring all of the employer's evidence over that of the Claimant. The Claimant's evidence was plausible and consistent.

[22] I do not accept that the Claimant voluntarily left his employment. I accept that he did not return to work because the employer told him there was no work. I have no reason to accept the Commission's note of the employer's single brief denial, over the Claimant's affirmed testimony.

[23] I also accept that the employer likely asked the Claimant for a medical clearance. The employer was a temporary employment agency and would likely have wanted such a clearance on file regardless of whether it had work available. Given the circumstances of the Claimant's medical absence, it is plausible that the employer would ask for his medical clearance, and it gave a detailed and plausible account of how the Claimant responded to its request.

[24] However, there was no evidence that the employer told the Claimant he could not return to work unless he provided medical note. There was also no evidence suggesting that the Claimant was unwilling to provide the kind of medical clearance that the employer said it requested. The employer said that the Claimant provided something in response to its request, but that it was not what the employer had asked for.

[25] The Claimant did not make a choice to leave his employment by not providing a medical clearance. The employer may have assumed he was not returning because he had had medical issues, but the Claimant did not say this.

[26] The employer told the Claimant there was no work, which the Claimant accepted. He was not given a choice to return to work.

---

[1] See *Canada (Attorney General) v Peace*, 2004 FCA 56.

Conclusion

[27] The appeal is allowed. I have found errors of law and fact in the General Division's decision. I have corrected those errors, and I have substituted my decision for that of the General Division. My decision is that the Claimant did not voluntarily leave his employment.

Stephen Bergen
Member, Appeal Division