

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20110511**

**Docket: A-262-10**

**Citation: 2011 FCA 163**

**CORAM: LÉTOURNEAU J.A.  
PELLETIER J.A.  
TRUDEL J.A.**

**BETWEEN:**

**THE ATTORNEY GENERAL OF CANADA**

**Applicant**

**and**

**LINE LANGEVIN**

**Respondent**

Heard at Québec, Quebec, on May 11, 2011.

Judgment delivered from the Bench at Québec, Quebec, on May 11, 2011.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**TRUDEL J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Québec, Quebec, on May 11, 2011)**

**TRUDEL J.A.**

[1] This is an application for judicial review of a decision by Umpire Polak dated May 21, 2010 (CUB 74588). The Umpire dismissed the Commission's appeal of a decision rendered by the Board of Referees on September 2, 2009, in which it reversed the Commission's decision refusing to grant Employment Insurance benefits to Ms. Langevin because she had left her employment voluntarily without just cause. Ms. Langevin appeared but did not file a memorandum of fact and law. However, during the hearing before this Court, she clearly explained her position, specifying that in leaving her employment, her intention was not to claim

benefits, but merely to notify the Commission that her employment had ceased. Given the Commission's response, all she wanted was to recover the document certifying the termination of her employment in case she needed it later. It appears that since beginning her new job, the respondent has accumulated enough hours to render the events related to the termination of her employment irrelevant to any subsequent claim for benefits that she might make.

[2] That said, and although the decision of this Court will not change anything for the respondent, we all agree that the Umpire committed errors of law warranting our intervention.

[3] The issue is whether the Board of Referees erred in law in determining that Ms. Langevin had just cause to leave her employment and that there was no reasonable alternative to her departure.

[4] The Board of Referees accepted Ms. Langevin's arguments and held that she was justified in leaving her employment for the following reasons (see page 4 of decision under appeal):

1. The new employment was in her field of study;
2. The new employment was better paid;
3. The on-call registry is the sole means of entry into the healthcare sector; and

4. Ms. Langevin had, at the time of her hearing before the Board, accumulated 350 hours of employment, thereby demonstrating that the CSSS requires her services on a regular basis.

[5] However commendable the claimant's intentions may have been, the Board erred in relying on them to reverse the Commission's decision. This Court has reiterated on several occasions that leaving one's employment to improve one's situation does not constitute just cause within the meaning of paragraph 29(c) of the *Employment Insurance Act*, S.C. 1996, c. 23 (the Act) (*Attorney General of Canada v. Richard*, 2009 FCA 122, at paragraphs 13 and 14).

[6] In *Canada (Attorney General) v. Langlois*, 2008 FCA 18, this Court wrote the following at paragraph 31 of its reasons for judgment:

While it is legitimate for a worker to want to improve his life by changing employers or the nature of his work, he cannot expect those who contribute to the employment insurance fund to bear the cost of that legitimate desire. This applies equally to those who decide to go back to school to further their education or start a business and to those who simply wish to earn more money.

[7] Furthermore, by accepting on-call employment, the claimant knew that she was running the risk of finding herself unemployed between calls. The risk inherent in this choice cannot be assumed by the Employment Insurance fund either (*ibidem*, at paragraph 12).

[8] Finally, the Board of Referees and the Umpire both attributed weight to the fact that the claimant had received several hours' worth of work following her claim for benefits, thereby justifying her decision to accept a new on-call position. This also constitutes an error.

[9] The circumstances referred to in paragraph 29(c) are those that existed at the time the respondent left her employment (*Canada (Attorney General) v. Furey*, [1996] F.C.J. No. 971, at paragraph 3 ; *Canada (Attorney General) v. Lamonde*, 2006 FCA 44, at paragraph 8). Therefore, the Board of Referees erred in basing its decision on events following the claim for benefits.

[10] The application for judicial review will be allowed without costs. The Umpire's decision, indexed as CUB 74588, will be set aside and the matter remitted to the Chief Umpire, or an Umpire that he designates, for a new determination on the basis that the Commission's appeal must be allowed, the Board of Referees' decision set aside and the Commission's decision restored.

“Johanne Trudel”

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J.A.

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-262-10

**STYLE OF CAUSE:** The Attorney General of Canada v.  
Line Langevin

**PLACE OF HEARING:** Québec, Quebec

**DATE OF HEARING:** May 11, 2011

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PELLETIER J.A.  
TRUDEL J.A.

**DELIVERED FROM THE BENCH BY:** TRUDEL J.A.

**APPEARANCES:**

Chantal Labonté FOR THE APPLICANT

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**SOLICITORS OF RECORD:**

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