Citation: *TM v Canada Employment Insurance Commission*, 2024 SST 1658

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

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

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (673892) dated July 18, 2024 (issued by Service Canada)

Tribunal member:	Connie Dyck
Type of hearing:	Teleconference
Hearing date:	September 10, 2024
Hearing participant:	Appellant
Decision date:	September 13, 2024
File number:	GE-24-2844

Decision

[1] The appeal is dismissed.

[2] The Appellant hasn't shown just cause (in other words, a reason the law accepts) for leaving his job when he did. The Appellant didn't have just cause because he had reasonable alternatives to leaving. This means he is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Appellant was working full-time when his job ended on March 31, 2024. This employment is not under appeal. While working at this full-time employment, the Appellant also worked part-time at a retail store, "L". He stocked shelves from 11pm to 7am. This is the employment under appeal.

[4] The Appellant left his job at L on March 30, 2024, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Appellant's reasons for leaving. It decided that he voluntarily left (or chose to quit) his job without just cause, so it wasn't able to pay him benefits.

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

[6] The Commission says that, instead of leaving when he did, the Appellant could have continued working part-time while seeking other employment.

[7] The Appellant disagrees and says that he wasn't getting enough hours, even though he told his employer he was available. He also left because of discriminatory and racist comments.[1]

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[1] GD2-5.

Issue

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

[9] 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 that the Appellant voluntarily left

[10] I accept that the Appellant voluntarily left his job. The Appellant and employer agree that he quit his job with L on March 30, 2024. I see no evidence to contradict this.

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

[11] The parties, that is the Appellant and the Commission, don't agree the Appellant had just cause for voluntarily leaving his job when he did.

[12] The law says you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.[2] Having a good reason for leaving a job isn't enough to prove just cause.

[13] The law explains what it means by "just cause." The law says you have just cause to leave if you had no reasonable alternative to quitting your job when you did.

[14] 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]

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[2] Section 30 of the *Employment Insurance Act* (Act) explains this.
[3] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 4.

[15] When I decide whether the Appellant had just cause, I have to look at all of the circumstances that existed when the Appellant quit.[4] The law sets out some of the circumstances I have to look at.[5]

[16] 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.[6]

The circumstances that existed when the Appellant quit

[17] The Appellant says:

- He was under a great deal of personal stress
- He had back pain
- His co-workers made comments about his religion and English skills
- He needed more than one shift per month to support his family

[18] I have no reason to doubt that these circumstances existed when the Appellant quit. The Appellant gave credible testimony of the stress in his personal life and his financial difficulties.

[19] The Commission has not provided any evidence to contradict the Appellant's testimony or his submissions. Therefore, I accept the Appellant was experiencing the circumstances as he has submitted.

[20] Considering all the circumstances that I have decided existed at the time the Appellant left his job, I will now look at whether he had no reasonable alternative to leaving his job when he did.

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[4] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.
[5] See section 29(c) of the Act.
[6] See section 29(c) of the Act.

The Appellant had reasonable alternatives to quitting his job

– The Appellant could have consulted with a physician

[21] The Appellant said he was under a great deal of stress due to personal matters and past experiences in his home country. It affects his mental health. He told me that he felt like this when he lived in another Canadian city, years ago. Then, he sought medical attention, including counselling and medication. However, he didn't do that this time. No doctor advised him that he should stop working. He said he just tried to work through it on his own.

[22] I think a reasonable alternative to quitting would have been to seek medical help for his mental health since this was successful for him in the past.

[23] He also said he had back pain.[7] He didn't ask his employer for any accommodations or discuss his condition with his employer. Also, there is no evidence that he needed any pain medication. Further, although he doesn't have a family doctor, he didn't need to see a walk-in clinic doctor or go to the hospital. He also didn't inquire about a sickness note from a doctor. In fact, the Appellant testified that he is now working full-time at another retail store, stocking shelves at night, which is the same work that he did at L.

[24] A reasonable alternative to quitting would have been to seek medical care or speak with his superiors about his back pain and ask for accommodations or less physically demanding work.

– The Appellant could have spoken with his superiors

[25] The Appellant said he co-workers made comments at work regarding his religion and English skills.[8] Again, the Appellant didn't speak with his employer about this situation. He said he had a fear of speaking up, especially to large companies or the government. But the Appellant never identified this as a reason that he quit until after his EI application was denied. He told me these comments made him sad, and he

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[7] GD3-19.
[8] GD2-5.

wasn't enjoying his job. Even if the Appellant was uneasy talking to his employer, this would have been a reasonable alternative. Further, the Appellant told me that he actually asked his employer for his job back, after he had resigned. This shows me this situation wasn't so intolerable that it warranted leaving immediately.

– **The Appellant could have continued working until he secured other employment**

[26] The Appellant worked full-time until March 31, 2024, when his contract ended. During this time, he also worked one to three shifts a month at L. He felt this was discriminatory because he advised his employer he was available for more shifts.[9]

[27] He felt that these few shifts weren't sufficient to financially support his family. He asked for more shifts, but the request was denied. The employer said no more shifts were available. The Appellant said these shifts were given out by seniority and he didn't have seniority.

[28] I realize that a couple of shift a month isn't enough to support a family, but the Appellant worked these shifts while working another full-time job. He may have been able to continue that practice when he found full-time work again, as he had in the past. A reasonable alternative to quitting would have been to continue working at L until he found other employment.

[29] Further, the Federal Court of Appeal (FCA) has consistently held that a person has just cause for quitting one of their two concurrent jobs when they had reasonable grounds to believe that their other job would continue.[10] However, in this case, the Appellant knew that his contract with his full-time employer was ending March 31, 2024.[11]

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[9] GD2-5.
[10] See Gennarelli v Canada (Attorney General), 2004 FCA 198 and Canada (Attorney General) v Leung, 2004 FCA 160.
[11] GD3-30.

[30] Considering all the circumstances that existed when the Appellant quit, the Appellant had reasonable alternatives to leaving when he did, for the reasons set out above.

[31] This means the Appellant didn't have just cause for leaving his part-time job within the meaning of the EI Act and the case law described above.

[32] The EI Act clearly states that when a person voluntarily leaves their employment, the insurable hours of employment accumulated from any employment prior to the date of loss of the employment are excluded from the calculation of the hours required to qualify for benefits.[12]

Conclusion

[33] I find that the Appellant is disqualified from receiving EI benefits.

[34] This means that the appeal is dismissed.

Connie Dyck
Member, General Division – Employment Insurance Section

[12] Subsection 30(5), Act; *Canada (Attorney General) v. Trochimchuk*, 2011 FCA 268.