



I LOST MY JOB DUE TO FAMILY OBLIGATIONS

You leave your job to go to Guinea to stay with your father who is seriously ill. In the meantime, you learn that he has died and you go to his funeral in Guinea, where you take care of your mother who is also seriously ill. Upon your return, you are refused employment insurance benefits on the ground that you voluntarily left your job.

THE FACTS

An individual was employed at a job from July 31, 2006 until October 28, 2008. He left his job voluntarily after having been informed at the beginning of October 2008 that his father was seriously ill. A few days later, he learned of his father's death and travelled to Guinea where he attended his father's funeral. Upon arrival, he discovered that his mother, who was blind and was then 86 years old, was also seriously ill. She suffered three heart attacks and was hospitalized for a period of two weeks. He was the only person who could look after her, since his brother and sister lived more than 50 kilometres away and the roads were impassable. The man therefore stayed by his mother's side, given her precarious state of health and the high cost of transportation if he were required to return to Guinea following a decline in her state of health. He returned to Quebec on May 4, 2009 once his mother's state of health had stabilized.

Before his departure, the man had informed his supervisor of the situation and had attempted to obtain an unpaid leave of absence, but without success. The supervisor had assured him, however, that upon his return "all he had to do was call him in order to be rehired". He was not on an unpaid leave of absence and was not entitled to an authorized absence. By the time he returned, the supervisor had left the employer and the person replacing the supervisor told the man that, due to the economic crisis, it was impossible to rehire him.

THE ISSUE

Did the man have a just cause under the Employment Insurance Act for voluntarily leaving his job?

THE DECISION

The Board of Referees was of the opinion that the man's absence to care for his sick and physically weakened mother could fall within one of the exceptions indicated in the Act. Paragraph (c) of section 29 of the Employment Insurance Act and the Regulation provide that in certain circumstances, such as the "(v) obligation to care for a child or a member of the immediate family", the claimant has just cause for voluntarily leaving his job. The Board considered that the man's departure was justified and was the only reasonable solution.

THE GROUNDS

The Board of Referees had to determine whether the claimant had left his employment voluntarily and without justification. The claimant had left his job following the illness and death of his father in Guinea. It was only upon arriving in Guinea that he became aware that his mother was seriously ill and needed someone to provide for her needs, given the state of her health. The Board of Referees concluded that, in the circumstances, the claimant had been justified in staying in Guinea to take care of his mother, since he had been the only one who could do so.

References

Lamine Bangoura v. Conseil arbitral assurance-emploi, 09-0382, 2009/08/19

Employment Insurance Act, (S.C. 1996, c. 23), section 29 (c) (v).

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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