

[TRANSLATION]

Citation : *N. T. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 62

Date: April 7, 2015

File number: GE-14-3688

GENERAL DIVISION – Employment Insurance Section

Between:

N. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

Decision rendered by: Normand Morin, Member, General Division – Employment Insurance Section

Hearing held by teleconference on March 24, 2015

REASONS AND DECISION

PERSONS IN ATTENDANCE

[1] The Appellant, N. T., participated in the telephone hearing (teleconference) held on March 24, 2015. She was represented by counsel Richard Morin, from the Legal Aid Office in Saint-Georges-de-Beauce, Quebec.

DECISION

[2] The Social Security Tribunal of Canada (the Tribunal) concludes that the Appellant showed just cause for voluntarily leaving her employment under sections 29 and 30 of the *Employment Insurance Act* (the Act).

INTRODUCTION

[3] On July 3, 2014, the Appellant made an initial claim for Employment Insurance benefits. The Appellant stated that she worked for employer Domco Food Services Ltd until January 16, 2014, inclusively, and stopped working for that employer because of a shortage of work (Exhibits GD3-3 to GD3-15).

[4] On July 11, 2014, the Respondent, the Canada Employment Insurance Commission, informed the Appellant that she was not entitled to regular Employment Insurance benefits, effective June 2, 2014, because voluntarily stopped working for Compass Group Canada Ltd on June 5, 2014, without just cause within the meaning of the *Employment Insurance Act* (Exhibits GD3-31 and GD3-32).

[5] On July 21, 2014, the Appellant submitted a Request for Reconsideration of an Employment Insurance (EI) Decision (Exhibits GD3-33 to GD3-35).

[6] On August 29, 2014, the Commission informed the Appellant that it was upholding the decision made in her case on July 11, 2014, concerning her voluntary departure from Compass Group Canada Ltd (Exhibits GD3-44 and GD3-45).

[7] On September 22, 2014, the Appellant submitted an Application Requesting Leave to Appeal to the Social Security Tribunal (SST) – Appeal Division. The Tribunal notes that, although the Appellant filed her appeal using the Application Requesting Leave to Appeal to the Social Security Tribunal (SST) – Appeal Division form rather than the Notice of Appeal to the SST General Division – EI form, or a similar form, the appeal was treated as though it were a regular appeal to the Employment Insurance Section of the Tribunal’s General Division (Exhibits GD2-1 to GD2-5).

[8] On September 24, 2014, the Tribunal asked the Appellant to immediately provide it with a [translation] “copy of the reconsideration decision under appeal” and to provide the date on which she was notified of the reconsideration decision. In this letter, the Tribunal tells the Appellant that, [translation] “if you wish to proceed with your appeal and do not provide the information required by the above-mentioned date, you will have to request without delay an extension of time to file the complete Notice of Appeal.” (unnumbered exhibit).

[9] On October 28, 2014, the Appellant provided Service Canada with a copy of the reconsideration decision made in her case on August 24, 2014 (Exhibits GD2B-1 to GD2B-5).

[10] On November 7, 2014, the Tribunal informed the Appellant that her Notice of Appeal appeared to have been filed more than 30 days after the date on which she received the Commission’s reconsideration decision. The Tribunal told the Appellant that, since her appeal appeared to have been filed late, she had to request, in writing, an extension of the time to file the Notice to Appeal no later than December 7, 2014. The Tribunal also asked the Appellant to submit a written explanation or to complete section 2B of the Notice to Appeal form in order to provide reasons for the lateness of filing her appeal (Exhibits GD2B-1 and GD2B-2).

[11] On November 18, 2014, the Appellant provided the reasons for the lateness of filing her appeal with the Tribunal (Exhibits GD5-1 to GD5-8).

[12] In an interlocutory decision rendered on January 20, 2015, the Tribunal agreed to extend the Appellant’s appeal period. On January 30, 2015, the Tribunal informed the Appellant of the interlocutory decision (Exhibits GD7-1 and GD7-14).

[13] On February 18, 2015, counsel Richard Morin, from the Legal Aid Office in Saint-Georges-de-Beauce, informed the Tribunal that he would participate in the hearing on behalf of the Appellant in this case (Exhibits GD8-1 to GD8-3).

[14] On February 26, 2015, the Tribunal informed the Appellant and her representative, counsel Richard Morin, that it had received the Information Release Authorization Form stating that the Appellant was now being represented (Exhibits GD9-1 and GD9-2).

TYPE OF HEARING

[15] This appeal was heard by teleconference for the following reasons:

- (a) The cost-effectiveness and the expediency of the hearing choice;
- (b) The Appellant will be the only party to participate in the hearing (Exhibits GD1-1 to GD1-4).

ISSUE

[16] The Tribunal must determine whether the Appellant had just cause for voluntarily leaving her employment under sections 29 and 30 of the Act.

APPLICABLE LAW

[17] The provisions regarding voluntary leave are set out in sections 29 and 30 of the Act.

[18] For the purposes of sections 30 to 33 of the Act regarding the disqualification from Employment Insurance benefits for “leaving without just cause,” subsection 29(c) of the Act provides that:

just cause for voluntarily leaving an employment or taking leave from an employment exists if the claimant had no reasonable alternative to leaving or taking leave, having regard to all the circumstances, including any of the following: **(i)** sexual or other harassment, **(ii)** obligation to accompany a spouse, common-law partner or dependent child to another residence, **(iii)** discrimination on a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act*, **(iv)** working conditions that constitute a danger to health or safety, **(v)** obligation to care for a child or a member of the immediate family, **(vi)** reasonable assurance of another employment in the

immediate future, **(vii)** significant modification of terms and conditions respecting wages or salary, **(viii)** excessive overtime work or refusal to pay for overtime work, **(ix)** significant changes in work duties, **(x)** antagonism with a supervisor if the claimant is not primarily responsible for the antagonism, **(xi)** practices of an employer that are contrary to law, **(xii)** discrimination with regard to employment because of membership in an association, organization or union of workers, **(xiii)** undue pressure by an employer on the claimant to leave their employment, and **(xiv)** any other reasonable circumstances that are prescribed.

[19] Subsections 30(1) and 30(2) of the Act include the following provisions concerning a “disqualification” from benefits:

(1) A claimant is disqualified from receiving any benefits if the claimant lost any employment because of their misconduct or voluntarily left any employment without just cause, unless: **(a)** the claimant has, since losing or leaving the employment, been employed in insurable employment for the number of hours required by section 7 or 7.1 to qualify to receive benefits; or **(b)** the claimant is disentitled under sections 31 to 33 in relation to the employment. **(2)** The disqualification is for each week of the claimant’s benefit period following the waiting period and, for greater certainty, the length of the disqualification is not affected by any subsequent loss of employment by the claimant during the benefit period.

EVIDENCE

[20] The evidence on file is as follows:

- (a) A Record of Employment dated February 6, 2014, states that the Appellant performed housekeeping work for Domco Food Services Ltd from August 9, 2013, to January 16, 2014, inclusively, and that she stopped working for this employer because of a shortage of work (Code A – Shortage of work/End of Contract or Season) (Exhibit GD3-16);
- (b) A Record of Employment dated June 27, 2014, states that the Appellant worked performed “General Help Step 1” for Compass Group Canada Ltd from February 25, 2014, to June 5, 2014, inclusively, and that she stopped working for this employer after voluntarily leaving (Code E – Quit) (Exhibit GD3-17);

(c) In her Request for Reconsideration of an Employment Insurance (EI) Decision presented on July 21, 2014, the Appellant submitted a copy of the following documents:

- i. A letter from Domco Food Services Ltd (Food services Group of Canada/Services Alimentaires Domco Limitée) dated July 21, 2014, stating that the Appellant had left her employment with Group Compass (Compass Group Canada Ltd) to accept a job offer it had made to come and work for its company (Exhibit GD3-35);
- ii. A letter from the Appellant describing the circumstances that led her to voluntarily leave her employment (e.g., receipt of a job offer from Domco Food Services Ltd, conflict with her immediate supervisor when the Appellant was working for Compass Group Canada Ltd) (Exhibits GD3-36 and GD3-37);

(d) On July 31, 2014, and August 8, 2014, the Appellant provided the Commission a copy of the following documents:

- i. Confirmation of airline ticket reservations for the Appellant with Pascan Aviation Inc. for a Quebec City-X flight scheduled for July 23, 2014 (Exhibits GD3-38 and GD3-39);
- ii. A letter from Compass Group Canada Ltd (Groupe Compass) dated August 4, 2014, stating that the Appellant worked for the ESS division of Groupe Compass-Canada from February 25, 2014, to June 5, 2014. The employer stated that the Appellant had informed it that she would be leaving her employment on June 5, 2014, because she received a job offer from her former employer, Domco Food Services, with better benefits (Exhibit GD3-40);

(e) On October 28, 2014, the Appellant provided Service Canada with a copy of the reconsideration decision made in her case on August 29, 2014 (Exhibits GD2B-1 to GD2B-5);

- (f) On November 12, 2014, the Commission stated that, for the period from June 1, 2014, to June 14, 2014, the Appellant's electronic reports and the certification provided by a Commission officer (the copies of the questions and answers provided by the Appellant were reproduced on June 13, 2014) show that the Appellant reported that she stopped working for an employer during the week of June 8, 2014, for a reason other than a layoff or on-call work (Exhibits GD3-18 to GD3-26);
- (g) On November 18, 2014, the Appellant provided the Tribunal with a copy of the following documents:
- i. A letter of explanation in which the Appellant states that, on May 13, 2014, she received a job offer as a receptionist for Camp O'Connell in Labrador City (Newfoundland and Labrador) from S. L. (Exhibits GD5-2 to GD5-5);
 - ii. The letter from Domco (Food services Group of Canada/Services Alimentaires Domco Limitée), dated July 21, 2014, which states that the Appellant left her employment with Group Compass to accept a job offer Domco had made to come and work for its company. The employer explains that [translation] "the contract did not take on the expected proportions" and that the Appellant did not get [translation] "the promised position" (Exhibits GD5-6 or GD3-35);
 - iii. The Request for Reconsideration of an Employment Insurance (EI) Decision submitted on July 21, 2014 (Exhibit GD5-7 or Exhibits GD3-33 and GD3-34);
 - iv. The decision rendered by the Commission (initial decision) dated July 11, 2014 (Exhibit D5-8 or Exhibits GD3-31 and GD3-32);
 - v. The Application Requesting Leave to Appeal to the Social Security Tribunal (SST) – Appeal Division submitted on September 22, 2014 (Exhibits GD5-9 to GD5-13 or Exhibits GD2-1 to GD2-5).

[21] The evidence submitted at the hearing is as follows:

- (a) The Appellant recalled her work history with Domco Food Services Ltd in X X, X, Quebec. She stated that she had worked for that employer for about two and a half years doing janitorial work (e.g., housekeeping of the rooms of workers assigned to that location and working in mining or construction) and then returned home to X-X-X-X on January 16, 2014, stating that the employer did not know at the time whether it would obtain a new contract and thus be able to offer her work (Exhibit GD3-16)
- (b) She stated that she returned to work for Domco Food Services Ltd for a few weeks after her period of leave but that Domco did not obtain a service contract that would have enabled her to continuing working for it, and that she was then transferred to Compass Group Canada Ltd in February 2014;
- (c) She explained that this was how she had come to work for Compass Group Canada Ltd from February 25, 2014, to June 5, 2014, in X X (Exhibits GD3-17 and GD3-40);
- (d) She stated that she again worked for Domco Food Services Ltd as of August 11, 2014, in X X, Quebec, a municipality located an hour's drive south of the town of X, Quebec, and that this job ended in October 2014;
- (e) She stated that the subsequently started a job in the restaurant sector in X-X-X-X, at le X X restaurant and Resto-Bar X X X.

SUBMISSIONS OF THE PARTIES

[22] The Appellant and her representative presented the following observations and submissions:

- (a) She explained that she decided to voluntarily leave her employment with Compass Group Canada Ltd on June 5, 2014, to take on another job that had been offered to her by another employer, Domco Food Services Ltd, and because she had been harassed by her supervisor (team leader) while working for Compass Group Canada Ltd (Exhibit GD3-30);
- (b) She explained that when she was working in X-X, X, Quebec, for Compass Group Canada Ltd, she had a schedule of 28 days of continuous work, followed by a leave period of 14 days. She stated that, during the period of leave, she would return home to

X-X-X-X. She stated that she hoped this situation would be considered in this case (Exhibits GD3-30 and GD2B-1 to GD2B-5);

- (c) She stated that she had obtained assurance of another employment after learning, in May 2014, that she could return to work for Domco Food Services Ltd, an employer for whom she had worked in the past, with better benefits. She stated that, on May 13, 2014, she received an offer from S. L. to work as a receptionist at Camp O'Connell in Labrador City (Newfoundland and Labrador). She stated that she then told that employer that she had to think about the offer he had made (Exhibits GD3-30, GD3-36, GD3-37, GD3-40, GD5-4 and GD5-5);
- (d) She stated that the job with Domco Food Services Ltd was scheduled to start on July 23, 2014. She noted that the airline tickets to get to X (Newfoundland and Labrador) on July 23, 2014, had been paid for by Domco Food Services Ltd (Exhibits GD3-30 and GD3-36 to GD3-40);
- (e) She explained that, subsequently, her new employer, Domco Food Services Ltd, contacted her to tell her that she no longer had the job she had been offered. She submitted that Domco Food Services Ltd (S. L., Project Manager) explained in a letter dated July 21, 2014, that, although he had offered her to work for the company and she had accepted, she did not get the promised position. She stated that she received a telephone call from the employer a few days prior to her scheduled departure on July 23, 2014, to the effect that he would not need her services and it was not possible to find work for her elsewhere at that time (Exhibits GD3-36, GD3-37, GD5-4 and GD5-5);
- (f) She stated that Domco Food Services Ltd then called her again on August 8 or 9, 2014, to offer her another job scheduled to start on August 11, 2014, in X X and that she accepted the offer;
- (g) She submitted that she had received threats from her immediate supervisor (team leader), M. D., and that she was harassed on the job while working for Compass Group Canada Ltd. She explained that she first met her supervisor in private twice to express

her dissatisfaction with the fact that other employees were given precedence in terms of work assignments even though they were hired after the Appellant. She stated that her supervisor had told her that M. G. (the operations manager) was the one who made the decisions regarding work assignments and that she subsequently learned that this was not the case. She stated that she then told her supervisor, during a break and in front of other employees, that she found her to be dishonest because she had lied to her. She stated that she then met with the boss, Mr. M. G., who explained to her that what she had said to her supervisor was true, but pointing out that she should not have spoken in this way about her supervisor in front of everyone. She stated that, in late May 2014 or early June 2014, at a meeting with a person who was to take care of the union, she met her supervisor (team leader) and her supervisor's husband. She stated that, when she was about to apologize to her team leader, her team leader's husband told her not to walk the (indoor) halls of X X alone anymore and that her supervisor gave her the finger ("Fuck you") and said: [translation] "Don't ever talk to me about your fucking life again." She explained that, after the incident, she felt ill, stressed and [translation] "troubled." She stated that, the day after the incident, given the stress she experienced, she announced her resignation to Mr. M. G. (the employer). She stated that she then called S. L. to tell him that she would accept the new job he had offered (Exhibits GD3-36, GD3-37, GD5-4 and GD5-5);

- (h) She explained that she did not file a complaint with the SST (Santé et sécurité au travail), or with Sécurité Gardium because she was leaving her employment knowing that she would have another one and also because she did not want to create problems for the couple with whom she had had a conflict. She stated that this situation explained why the reason stated in her Record of Employment was 'quit.' She stated that she had preferred to leave because she had assurance of another job with Domco Food Services Ltd, who was offering better benefits, and because she thereby accepted the offer that employer had made to her in May 2014 (Exhibits GD3-36, GD3-37, GD5-4 and GD5-5);
- (i) She expressed her disagreement with the statement attributed to her to the effect that she left her employment because she [translation] "wanted to be closer to her family"

(Exhibit GD3-27). She stated that this was not what led her to voluntarily leave her employment and that she told the Commission officer with whom she spoke to about this matter that she knew she would have another job, that she was looking for work and that she had been able to take advantage of this opportunity to be closer to her family. She noted that the Commission assumed that she had left her employment to be closer to her family when this was not the case. She stated that, at the same time, her daughter-in-law had a child and that the birth had been difficult. She stated that she then decided to help her family while remaining available for work and waiting to start her new job (Exhibits GD3-36, GD3-37, GD5-4 and GD5-5):

- (j) She also expressed her disagreement with the statement attributed to her according to which she answered “no” to the question: “Have you been looking for a job since you left your employment?” (Exhibit GD3-28);
- (k) She also stated that, after voluntarily leaving on June 5, 2014, she visited her son in order to see his little girl who had just been born and that she conducted job searches, contrary to what was reported, namely, that she had [translation] “moved in with” her son and did not have the time to look for work (Exhibit GD3-28);
- (l) She stated that she also disagreed with the statement attributed to her to the effect that she decided to leave her employment to help her son and her daughter-in-law with their child, and that she had made a personal choice to leave her employment in order to spend time with her family (Exhibit GD3-30).
- (m) The Appellant’s representative submitted the case law referred to in a decision rendered by the Tribunal and published on its website (*White*, 2011 FCA 190, cited in *R. P. v. Canada Employment Insurance Commission*, Social Security Tribunal of Canada, 2014, SSTGDEI 27, April 15, 2014) to show that the Appellant’s context at the time should be taken into consideration and that she tried to resolve the problems she faced during the course of her work at Compass Group Canada Ltd, even though her efforts were not successful;

- (n) He stated that the Appellant had shared her legitimate dissatisfaction with the fact that less experienced employees had better positions and that she had tried her best to restore good relations with Compass Group Canada Ltd. He stated that these efforts failed, that the employer did not accept the apologies that the Appellant wished to make but, rather, that she was subjected to comments which the representative qualified as threats and which were to the effect that she could suffer reprisals. He submitted that the Appellant had reason to believe that her services were no longer required because she feared harassment and a threat to her physical and psychological safety. He stated that the Appellant's situation was enough for her to feel [translation] "troubled" or stressed;
- (o) He submitted that, before voluntarily leaving her employment, the Appellant knew that she would have another job. He stated that the airline tickets had been purchased by the employer who planned to hire her. He stated that the Appellant had every reason to believe that she would be hired by Domco Food Services Ltd. He submitted that the reason invoked by the Appellant amounts to just cause for voluntary leaving under sections 29 and 30 of the Act;
- (p) He submitted that the need expressed by the Appellant to look after her daughter-in-law or to join her spouse was accessory to this case;
- (q) He submitted that the Appellant had been honest, clear and transparent in her testimony;
- (r) He submitted that the Appellant should be entitled to Employment Insurance benefits because she had just cause for voluntarily leaving within the meaning of the Act;
- (s) He asked that the decision rendered in the Appellant's case on August 29, 2014, be amended to allow her to receive Employment Insurance benefits.

[23] The Commission presented the following observations and submissions:

- (a) It stated that it conceded the appeal in this case (Exhibit GD4-1);
- (b) It explained that known facts were not taken into consideration in the reconsideration decision rendered on August 29, 2014. It noted that, apart from assurance of the other job scheduled to begin at Domco Food Services Ltd on July 23, 2014, there was also the

remoteness of the workplace from the Appellant's residence and family (Exhibit GD4-1);

(c) It stated that it did not have important pieces of information about the chronology of events. The Commission noted that it did not know the actual date on which the Appellant stopped working, taking into account the period of leave following her period of work, or the date on which the Appellant was supposed to resume work for her employer Compass Group Canada Ltd, given that this was a contract (Exhibit GD4-1);

(d) It explained that, as soon as an appeal is filed with the Tribunal, it is removed from the case and cannot proceed with additional fact-finding (Exhibit GD4-1).

ANALYSIS

[24] In *Rena-Astronomo* (A-141-97), which confirmed the principle established in *Tanguay* (A-1458-84) to the effect that it is the claimant's responsibility to prove, when they voluntarily leave their employment, that there are no other reasonable alternatives to leaving the employment at the time, the Federal Court of Appeal (the Court) recalled the following: "The test to be applied having regard to all the circumstances is whether, on the balance of probabilities, the claimant had no reasonable alternative to leaving his or her employment."

[25] This principle was confirmed in other decisions of the Court (*Peace*, 2004 FCA 56, and *Landry*, A-1210-92).

[26] In addition, the words "just cause," as used in subsections 29(c) and 30(1) of the Act, were interpreted by the Court in *Tanguay v. C.A.-C.* (A-1458-84 (October 2, 1985); 68 N.R. 154) as follows:

In the context in which they are used these words are not synonymous with "reasons" or "motive." An employee who has won a lottery or inherited a fortune may have an excellent reason for leaving his employment: he does not thereby have just cause within the meaning of s. 41(1). This subsection is an important provision in an Act which creates a system of insurance against unemployment, and its language must be interpreted in accordance with the duty that ordinarily applies to any insured, not to deliberately cause the risk to occur. To be more precise, I would say that an employee who has, voluntarily left his employment and has not found another has deliberately placed himself in a situation which enables him to compel third parties to pay him

unemployment insurance benefits. He is only justified in acting in this way if, at the time he left, circumstances existed which excused him for thus taking the risk of causing others to bear the burden of his unemployment.

[27] The Court also confirmed that it was the responsibility of the claimant who voluntarily left their employment to prove that there was no other reasonable alternative to leaving their employment at the time (***White*, 2011 FCA 190**).

[28] In ***Smith (A-875-96)***, the Court added the following:

Subsection 28(4) of the Act provides some understanding for the meaning of the phrase “just cause” for voluntarily leaving an employment. It provides for an examination of “all the circumstances”, including those enumerated in that section, so as to determine if “the claimant had no reasonable alternative to leaving the employment”. An examination of the enumerated circumstances indicate situations occurring independently from the will or participation of the claimant and beyond his control. This is true with regard to all the headings, but one should note in particular paragraph (j) which reads: (j) antagonistic relations between an employee and a supervisor for which the employee is not primarily responsible;

[29] The Court determined that, when a decision of the Commission is appealed, the decision is no longer in the Commission’s hands and any change to a decision after it is appealed is null and void (***Wakelin, A-748-98, Poulin, A-516-91, and Von Findenigg, A-737-82***).

[30] A claimant has just cause for voluntarily leaving their employment if, having regard to all the circumstances, including those enumerated in subsection 29(c) of the Act, leaving is the only reasonable alternative in their case.

[31] In this case, the Tribunal finds that the Appellant’s decision to voluntarily leave the employment she had with Compass Group Canada Ltd must be considered as the only reasonable alternative in this situation. Under subsection 29(c) of the Act, there were circumstances justifying her voluntary departure.

[32] Before voluntarily leaving her employment, the Appellant had reasonable assurance of another employment in the immediate future. The Appellant’s voluntary departure can also be explained by the existence of an antagonism for which she was not entirely responsible.

[33] Paragraphs 29(c)(vi) and 29(c)(x) of the Act specifically provide that:

[...] just cause for voluntarily leaving an employment or taking leave from an employment exists if the claimant had no reasonable alternative to leaving or taking leave, having regard to all the circumstances, including any of the following: [...] (vi) reasonable assurance of another employment in the immediate future, [...] (x) antagonism with a supervisor if the claimant is not primarily responsible for the antagonism

Reasonable assurance of employment

[34] The Tribunal finds that, before voluntarily leaving, the Appellant had obtained “reasonable assurance of another employment in the immediate future,” as provided by paragraph 29(c)(vi) of the Act.

[35] The evidence shows that, when she voluntarily left her employment with Compass Group Canada Ltd, on June 5, 2014, the Appellant had previously obtained assurance of another employment with Domco Food Services Ltd., an employer for whom she had worked in the past.

[36] The Appellant stated that she found out in May 2014 that she could return to work for Domco Food Services Ltd. and that the new job would start on July 23, 2014. However, circumstances were such that the Appellant was not employed as planned.

[37] Employer Domco Food Services Ltd corroborated the Appellant’s statements. In a letter dated July 21, 2014, the employer explained that the Appellant had left her job with Compass Group Canada Ltd to accept a job offer it had made to come and work for its company, but that, in the end, the job offer did not materialize (Exhibit GD5-6).

[38] In the letter, Domco Food Services Ltd (Food services Group of Canada/Services Alimentaires Domco Limitée) explains that [translation] “the contract did not take on the expected proportions” and that the Appellant would not get [translation] “the promised position” (Exhibit GD5-6).

[39] The evidence also shows that, in addition to promising the Appellant a job, the employer paid for the airline tickets for her to fly from X-X-X-X, where she lived, to X, on July 23, 2014 (Exhibits GD3-30, GD3-36 to GD3-40). This is an additional piece of evidence which confirms that the Appellant had reasonable assurance of another employment in the immediate future.

[40] To come to the conclusion that the Appellant had reasonable assurance of another employment in the immediate future, the Tribunal also considers the specific work schedule to which the Appellant was subject when she was working for Compass Group Canada Ltd, namely, a continuous period of 28 days of work, followed by 14 days of leave. This specific schedule can be explained by the great distance between the Appellant's place of residence (X-X-X-X) and her workplace (X X in X). With respect to her work schedule, the Appellant also testified that, if she had not voluntarily left her employment on June 5, 2014, she would have had a 14-day period of leave following the 28-day work period, which she had completed without interruption by that date.

[41] The Tribunal finds that this is a unique circumstance which further supports the fact that the Appellant had reasonable assurance of a new job in the immediate future, that is, in a future close enough to the expected start date of her new job.

Existence of an antagonism

[42] The Tribunal also finds the Appellant's voluntary departure was justified by the existence of an "antagonism with a supervisor if the claimant is not primarily responsible for the antagonism," as provided in paragraph 29(c)(x) of the Act.

[43] The Appellant's testimony, which was not contradicted, was also to the effect that, in late May 2014 or early June 2014, the Appellant was subjected to comments from her immediate supervisor (team leader), as well as from her supervisor's spouse, that were both very offensive and threatening and that led her to voluntarily leave her employment on June 5, 2014.

[44] The incident reported by the Appellant followed two meetings between the Appellant and her team leader. The Appellant explained that, at those meetings, she shared with her team leader her dissatisfaction with the fact that other employees took precedence over her in terms of work assignment, whereas they were hired after the Appellant.

[45] The Appellant stated that she then learned that, contrary to what her team leader had told her when she met with her, it was not the operations manager who made work assignment decisions, but rather her team leader. She also reported that she subsequently told her supervisor,

during a break and in front of other employees, that she found her to be dishonest because she had lied to her on this matter.

[46] The Appellant explained that, after meeting with the operations manager regarding the problems she had with her team leader, she tried to apologize to the team leader. She stated that, when met with her supervisor and was about to apologize, the supervisor gave her the finger (“Fuck you”) and told her: “Don’t ever talk to me about your fucking life again.” the Appellant stated that her team leader’s husband, who was there at the time, told her never to walk the (indoor) halls of X X alone again.

[47] The Tribunal finds that the comments uttered to the Appellant by her team leader and the team leader’s husband irreparably undermined the relationship of trust between the employer and the Appellant and that she had no choice other than to leave her employment.

[48] The Appellant explained that, after this incident, she felt ill, stressed and [translation] “troubled.” She stated that she then announced that she was leaving her employment with Compass Group Canada Ltd. She stated that she subsequently contacted Domco Food Services Ltd to say that she accepted the new job that he had recently offered her.

[49] The tribunal finds that the existence of an antagonism between the employer and the Appellant, for which the Appellant was not primarily responsible, shows that voluntarily leaving had become the Appellant’s only reasonable alternative in that situation (**White, 2011 FCA 190, Peace, 2004 FCA 56, and Landry, A-1210-92**). The Appellant cannot be considered the only one responsible for the antagonism that existed between her and her employer (**Smith, A-875-96**). The Appellant tried to find a solution to the problem she had in completing her work for Compass Group Canada Ltd, but her efforts were unsuccessful. The Appellant’s representative effectively highlighted this element during the hearing.

[50] Having regard to the specific circumstances brought before it in this case, the Tribunal finds that voluntarily leaving was the Appellant’s only reasonable alternative in this situation.

[51] First, the Appellant had reasonable assurance of another employment in the immediate future under paragraph 29(c)(vi) of the Act. In that regard, the Tribunal notes that, if the Appellant had not voluntarily left her employment on June 5, 2014, she could have taken a 14-

day period of leave thanks to her specific work schedule, since on that date she had completed a continuous work period of 28 days without interruption.

[52] The Tribunal also finds that the Appellant had an “antagonism with a supervisor if the claimant is not primarily responsible for the antagonism,” as provided by paragraph 29(c)(x) of the Act. This situation also constitutes just cause for the Appellant’s voluntarily leaving her employment within the meaning of the Act.

[53] Relying on the above-mentioned case law, the Tribunal finds that the Appellant demonstrated that there was no other reasonable alternative to leaving her employment with Compass Group Canada Ltd.

[54] The Tribunal finds that, having regard to all the circumstances, the Appellant had just cause for voluntarily leaving her employment under sections 29 and 30 of the Act.

[55] The appeal is based on the issue.

CONCLUSION

[56] The appeal is allowed.

Normand Morin
Member, General Division – Employment Insurance Section