



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. T. v. Canada Employment Insurance Commission*, 2016 SSTGDEI 126

Tribunal File Number: GE-16-1602

BETWEEN:

J. T.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Teresa Jaenen

HEARD ON: September 15, 2016

DATE OF DECISION: October 12, 2016

REASONS AND DECISION

PERSONS IN ATTENDANCE

Ms. J. T., the Appellant (claimant) along with her witness, Ms. C. W. attended the hearing.

INTRODUCTION

[1] On January 3, 2016 the Appellant established a claim for employment insurance benefits. On January 27, 2016 the Canada Employment Insurance Commission (Commission) denied the Appellant benefits because it was determined she voluntarily left her employment without just cause. On February 1, 2016 the Appellant made a request for reconsideration. On March 18, 2016 the Commission maintained its original decision and the Appellant appealed to the *Social Security Tribunal of Canada* (Tribunal).

[2] The hearing was held by In person for the following reasons:

- a) The complexity of the issue(s) under appeal.
- b) The information in the file, including the need for additional information.
- c) The form of hearing respects the requirement under the Social Security Tribunal Regulations to proceed as informally and quickly as circumstances, fairness and natural justice permit.

ISSUE

[3] The Tribunal must decide whether a disqualification should be imposed pursuant to sections 29 and 30 of the *Employment Insurance Act* (Act) because the Appellant voluntarily left her employment without just cause.

EVIDENCE

[4] On her application for benefits the Appellant stated she left her employment for another job. She indicated that she didn't have a job when she left but she knew of one or more employers who were hiring. She stated she never spoke to any employers prior to leaving. She

stated she was moving to Manitoba to be closer to family and she has the opportunity to start her own business (GD3-5 to GD3-6).

[5] A record of employment indicates the Appellant was employed with Sunset Innisfail Country Manor from August 1, 2015 to December 31, 2015 when she quit her employment (GD3-14).

[6] On January 15, 2016 the Commission contacted the Appellant who stated she left her job to move to Manitoba to be closer to family. She stated she had recently been ill and realized she needed family support. She stated her doctor had placed her on stress leave in the summer of 2015 and prior to that was diagnosed with a heart disease in 2013. She stated that her health condition was the primary driver in looking to be closer to family. She stated she arranged accommodations prior to her move. She stated she does not have medical conditions that require support under doctor's orders. The Appellant stated she conducted a preliminary survey of the area around Selkirk and asked people to do some checking and it was confirmed there were positions as a casual employee and on call work available in the local nursing homes, hospital and psychiatric wards. She stated she did not apply for any jobs prior to moving and has not applied for any jobs as of January 15, 2016. She stated she hopes to get a job at the new hospital when it opens in 2017 and she plans to apply at the old hospital as well. She stated she received a letter of Portability and a letter of Recommendation from SIM showing her hours worked and a commendation for her work in Alberta. She stated there was no transfer available. The Appellant stated she is thinking of starting a self-employment business as a home care provider but has not currently set anything up (GD3-16).

[7] On January 27, 2016 the Commission notified the Appellant they were unable to pay benefits as it was determined she voluntarily left her employment without just cause (GD3-17).

[8] On February 3, 2016 the Appellant made a request for reconsideration stating she had no choice but to quit her job to move closer to family for mental and physical health reasons. She stated she had been advised by her doctor in Alberta to reduce her stress and she had been on a stress leave in June and July 2015. She stated she had no family in Alberta, she is a recovering from alcoholism and depression and empty nest syndrome. She stated she was dealing with harassment in the workplace from October 2015 to December 2015 by two nurses

as she had reported them for abuse and neglect of resident. She stated rather than enlist the Union to help her fight for her job she had to quit. It was too stressful for her to deal with. Her sobriety was in jeopardy and her depression was escalating (GD3-19 to GD3-21).

[9] On March 11, 2016 the Commission contacted the employer who stated the Appellant quit as she was moving out of the province. The employer stated that the Appellant had reported the two nurses and the incident had been resolved well prior to the Appellant deciding to resign. The employer stated that the Appellant never brought forth any concerns about being harassed after reporting the nurses. She stated the Appellant provided a letter of resignation. The employer provided a copy of the resignation letter dated November 16, 2015 that stated she was moving and her last day would be December 31, 2015 (GD3-23 to GD3-25).

[10] On March 14, 2016 the Commission contacted the Appellant who reiterated her reasons for leaving. She stated she had found part-time employment since February 24, 2016. The Appellant stated (in regards to the harassment) that the manager told her they would help her through it if she continued to work there but she had decided to move. She stated the nurses she reported were harassing her and retaliating and it was well known and of course the management would tell them it was resolved. She stated that everything in her life had to change and because she was moving and she wouldn't be working there anymore is why she didn't get the union involved. The Commission advised the Appellant that she made a personal choice to leave and without medical proof that her doctor recommended she leave her claim could not be allowed (GD3-26 to GD3-27).

[11] A medical note dated March 17, 2016 from Dr. Benshaban was submitted which stated it was the first time he has seen the Appellant and that it is his opinion it was necessary for the Appellant to terminate her employment (GD3-31).

[12] On March 18, 2016 the Commission contacted the Appellant regarding the medical note and advised it was not sufficient to allow her reasons for leaving. The Commission advised the note appears to be written on details she had given to the doctor as they had never seen her before that visit so he was not in a position to confirm she had to leave her job as he was not even aware of her history. The Appellant stated she couldn't get a hold of her doctor in Red Deer as he does not accept personal calls or emails. She stated she is trying to get her records

transferred to a doctor in Manitoba but she doesn't have one yet and without a doctor she cannot get her records transferred (GD3-32).

[13] On March 18, 2016 the Commission notified the Appellant and the employer the original decision on voluntary leaving would be maintained and advised of the right to appeal to the Tribunal (GD3-33 to GD3-36).

[14] On April 20, 2016 the Appellant filed a Notice of Appeal stating she believes she has been discriminated against due to incorrect information from a former employer and that she has been suffering with mental health issues and she needed to move to Manitoba to have the family support for her well-being and to start a new life and job. The Appellant included a medical note from Dr. Benshaban, who stated that in his opinion it was necessary for the Appellant to terminate her employment in Alberta as her physical and mental health was being affected. He stated she moved to Manitoba to be closer to family who offer her support and assist her to live a sober life. A second medical note dated April 19, 2016 from Dr. Benshaban who confirmed it was necessary for the Appellant to move to Manitoba (GD2-1 to GD2-11).

[15] On May 5, 2016 the Appellant submitted additional information in support of her appeal. She stated that during the Commission's investigation with her former employer, the employer was not forthcoming in regards to the harassment she endured. She stated that the management was aware of the situation and that she had spoken to her union. She stated that she feared retaliation in the event she was to file a grievance and as the whole ordeal was overwhelming and detrimental to her mental and physical well-being she did not pursue it. She stated she was told by her physician in Red Deer, Alberta reduce any and all negative stress in her life for her well-being. She submitted that she was a recovering alcoholic and her sobriety was fragile and she was concerned about controlling her addiction, as well she was very depressed due to the harassment at work (GD6-1 to GD6-3).

EVIDENCE AT THE HEARING

[16] The Appellant stated that this has been a long process and she doesn't feel like she has been treated fairly. She stated there is information that hasn't been forthcoming from her former employer that wasn't all truthful.

[17] The Appellant stated she left her employment for a number of reasons; she was having difficulties with coworkers. She asked her manager for a meeting to discuss the situation however she was declined the meeting and things escalated and she decided she could no longer work there for her well-being and she could relocate, reducing all the stress she was experiencing at the work place, her home life and her mental health was not in good standing. In a nutshell being a recovering alcoholic she was having trouble managing her work and home life and her former physician had told her on numerous occasions she needed to reduce the stress in her life and part of that was to continue to live a sober life. She needed to give up her friends and her apartment to stay a sober life. She stated not being able to start over probably would have been her demise. She would have spiraled into a relapse. Moving away was her real motive. She was no longer able to function at work, she had no support from management and her home life was lonely and empty. Through AA she learned at times you have to give up everything if it means staying sober and this is what she did.

[18] The Appellant stated her first mistake was she didn't disclose everything when she made her application for benefits. She should have elaborated more on the issues she was having at work and personally. She wasn't able to get a doctor in Selkirk and her doctor in Alberta would only release her records to a family doctor, which to date she is working on it and she still cannot get her records. This has been a problem as she is not able to validate her health reasons.

[19] Her witness with her today has been a constant and a steady and very aware of her situation starting in May 2015 and with family support she knew she could continue to live a sober life and continue to work as a health care aid. It's a very stressful job and sometimes is the cause of her depression and sometimes the depression is something she has been living with being an alcoholic as most drunks are depressed. Through long discussions with her witness, her family and her physician it was imperative she start over. When she moved to Manitoba in January 2016 and she knew she would be able to find employment. She stated it took her to

February 2016 but she did find herself a permanent part time job. She stated her EI claim being denied put her into financial stress. She stated in May 2015 she was able to pick up a full time term.

[20] The Appellant stated that she fell into a deep depression, and relapsed. She was put on a stress leave in June until August 2015. She stated she was concerned with relapsing as she was experiencing a great deal of stress. Most of the stress was financial. She stated she had just moved 1000 miles, spent all her savings, and then everything fell apart. She moved in with family. She stated she now has found full time work and been promoted to recreational therapist. She has been managing her sobriety, paying back family. She is \$3000.00 in debt and feels all this was preventable. She states that she feels she is being discriminated against for having a mental illness and that is what alcoholism is.

[21] The Appellant stated that struggling is just part of the disease and being denied repeatedly she was not being treated fairly. She stated she should have, in her initial claim explained her health issues to the agent instead of skirting the issue, she did tell the agent she was having issues at work and she needed family support. Her son left in April 2015 and she found the empty nesting very difficult. She stated that she was having sleep issues and mental health issues and she knew she needed her family to help her stay sober.

[22] The witness stated that everything the Appellant has stated is true and that she needed to move back to Manitoba to be closer to family. She stated that there was an instance when the Appellant lived in Alberta and was hospitalized there was no one to even go visit her, she had no family there. The witness stated that the statements the Appellant had said about her being bullied were ones she shared with her as well.

[23] The Appellant stated in regards to looking for work prior to leaving she did search the Internet and she knew there were health care facilities in the area and that there was to be a new hospital built in 2017. She stated that in the least she could start her own private healthcare aide business as she had done in the past. The Appellant stated in securing a job she would be able to as there were always postings on the Internet for places like Betel Home Foundation, Tudor House, the Psychiatric Hospital. She was offered work part-time at Red River Place on

February 20th. She stated she had the interview on February 17, 2016 and her orientation was on February 25, 2016.

[24] The Appellant stated she arrived in Manitoba on January 14, 2016 and started looking around January 22 or 23rd. She was able to get through boxes, find her papers, updated her resume and got a new local phone number. Within 2 to 3 weeks she had secured a position.

[25] The Appellant stated in regards to the employer's statement that things had been worked out regarding the harassment, she stated that it had not been and that she had been down this road before and she knows if you don't have management support when you make a neglect complaint it doesn't go far. She stated she did speak to her Union representative and it was her charge nurse who was the union shop steward and she was aware of what was happening and she tried her best to diffuse the situation when her alleged abuser would harass her. She stated she asked the shop steward on two occasions and if she can get the Union to support her, what do we do. The shop steward stated that first they file a grievance and the people who are named as the abusers are notified and then there will be a hearing and if she has to resign because of this becoming too stressful, as harassment is not allowed on the job, there could be compensation to her for lost wages if it comes to that point. She stated she told the shop steward that she didn't have the support of her manager and she can't even get the manager to sit down and discuss this as the manager just wants to act like none of this is happening and ignore it. She stated the shop steward advised her that they do the grievance process and take it from there. She stated she told the shop steward that she could see she was going to have a problem as there were three involved and the charge nurse on the night shift was in with the three so she had no support. The charge nurse was protecting the alleged. The stress of everything, trying to stay sober, working nights with a skeleton crew who were against her and when she told them the things that were doing wrong and she didn't go along with it they turned on her and she became the target. The manager didn't work nights and she didn't see what was going on, and she wouldn't support her so she made the decision that her mental health was more important than that job and she could certainly get another job. She did not pursue the grievance process because she believed this was one fight she wasn't going to win and she just gave up and if she did win the grievance process she would still be working with same crew and some of things she saw them do were what she would consider criminal.

[26] In regards to the medical documentation (GD2-10 and GD2-11) and the Commission stating the note is not sufficient the Appellant stated she visited the doctor and asked if he could assist her in getting her medical records from her doctor in Alberta. Her doctor stated because he was not her family doctor, and he was not accepting new patients, he was not able to request the records. She stated she was not able to get a family doctor and the only other alternative was to go back to Alberta and get the file herself, which was not possible as she cannot afford to do so. She stated her physician in Alberta told her they would only release her records to her in person or to a family doctor. She stated its now 9 months later and she still has no family doctor. She stated Dr. Benshaban has agreed to see her until she can get a family doctor. The doctor was more than willing to support her after reciting to him, he had no question of her credibility and he believed fully the reasons she had to quit. He has supported her in her sobriety; he put her on anti-depressants and sleeping pills in April 2016, which had a very negative impact on her.

[27] The Appellant stated that had she had a good work environment with support and support in her personal life she may have been able to tough it out but as it was there was nothing on either for her. She stated having to give up all her friends to stay sober she didn't have any that support either. The bullying at work caused her to be so overwhelmed and completely exhausted.

[28] The Appellant stated that she was grateful that she was provided with an opportunity to explain her situation and that the reasons she is at this point was because she wasn't forthcoming in the beginning. She stated it is humiliating to bear your soul to strangers when you are a recovering alcoholic, but she has done it now.

[29] The Appellant stated that the employer's statement in (GD3-23) that she dealt with that problem is not true; the only way the problem was dealt with was that she resigned. She stated she felt she had to resign because the problem was not going to be resolved. The Appellant stated her manager would not have a meeting with her and only did after she handed in her resignation. The Appellant stated that person who made the statement (GD3-23) was from Human Resources and who sat in on the meeting after she had handed in her resignation. She stated by the time the meeting was held it was too late she had already decided she could no longer work in that environment.

SUBMISSIONS

[30] The Appellant submitted that:

- a) She had no choice but to leave due to her mental health and well-being;
- b) The working conditions were intolerable and causing her to be overwhelmed, depressed and in fear of relapsing;
- c) She did try and rectify the situation by speaking her manager however the manager would not provide her with a meeting and she felt without the support of management it would be a futile attempt to go through the grievance process. She stated it was only after she spoke to her union and subsequently resigned the manager agreed to a meeting but by then it was too late;
- d) She is a recovering alcoholic which is a mental illness; and
- e) She was not able to get medical evidence or her records from her physician in Alberta but she did provide medical evidence from her Manitoba doctor who believes her and supports that it was necessary to leave her employment and he provided two pieces of medical documentation.

[31] The Respondent submitted that:

- a) The Appellant failed to exhaust all reasonable alternatives prior to leaving;
- b) A reasonable alternative would have been to request a leave of absence to visit the new areas to seek employment, continue working until she secured new employment in the area where she wanted to reside, if she was being harassed by co-workers then she could have taken managements offer of helping her through it or get the union involved by filing a grievance however because she was moving she didn't want to follow through with trying to rectify the situation;
- c) The Appellant indicates she left her job due to stress on the advice of her doctor but unfortunately the medical note recently provided was obtained by a doctor after the fact

and it appears that it has been produced primarily on what the Appellant has told the doctor given it was her first visit to the medical clinic. Additionally, the medical note provided is very self-serving which one can conclude is due to the unfavorable decision rendered;

- d) The Appellant confirmed she does not have any medical issues currently that required her to move to be closer to her family for her assistance however she states she moved to Manitoba just in case any further health issues arise;
- e) The Appellant has voluntarily put herself in a position of unemployment without having shown just cause or that her employment situation was unbearable to the point that she had no reasonable alternative but to quit; and
- f) The Appellant's decision to move to Manitoba because it was time for change is purely personal and therefore, she has not demonstrated just cause for leaving.

ANALYSIS

[32] The relevant legislative provisions are reproduced in the Annex to this decision.

[33] The Tribunal must decide whether the Appellant should be disqualified pursuant to sections 29 and 30 of the Act because she voluntarily left her job without just cause. Under subsection 30(1) of the Act, an employee is disqualified for receiving EI benefits if she loses her job as a result of misconduct, or voluntarily leaves her job without just cause. Subsection 29(c) of the Act provides that an employee will have just cause by leaving a job if this is no reasonable alternative to leaving taking into account a list of enumerated circumstances including: (iv) working conditions that constitute a danger to health or safety.

[34] In this case there is no dispute the Appellant voluntarily left her employment due to stressful working conditions that caused her stress and anxiety and the fear of relapsing which affected her health and well-being. Thus the onus is on the Appellant to prove she had no reasonable alternative to leave when she did.

[35] The Federal Court of Appeal reaffirmed the principle that where a claimant voluntarily leaves her employment, the burden is on the claimant to prove that there was no reasonable alternative to leaving when she did (*Canada (AG) v. White*, 2011 FCA 190 (CanLII)).

[36] In *Rena-Astronomo* (A-141-97), which confirmed the principle established in *Tanguay* (A-1458-84) according to which the onus is on the claimant who voluntarily left an employment to prove that there was no other reasonable alternative for leaving the employment at that time, MacDonal J.A. of the Federal Court of Appeal (the Court) stated: “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.”

[37] The Respondent argues that a reasonable alternative would have been to request a leave of absence to visit the new areas to seek employment, continue working until she secured new employment in the area where she wanted to reside, if she was being harassed by co-workers then she could have taken managements offer of helping her through it or get the union involved by filing a grievance however because she was moving she didn't want to follow through with trying to rectify the situation.

[38] The Appellant presents the agreement that she did try and rectify the situation by speaking her manager however the manager would not provide her with a meeting and she felt without the support of management it would be a futile attempt to go through the grievance process. She stated it was only after she spoke to her union and subsequently resigned the manager agreed to a meeting but by then it was too late.

[39] The Tribunal finds from the Appellant evidence on the file and with further oral evidence that the issue of harassment did exist and had not been resolved. She testified that the statement made in (GD3-23) was untrue as the only way the issue had been resolved was because she resigned and did not pursue the grievance process. The Appellant testified that the person who made the statement was the Human Resources manager and she was not the one whom she tried to speak with.

[40] The Tribunal finds the statement made by the employer in (GD3-23) to be somewhat unclear as the employer confirmed to the Commission that the Appellant had reported the issues

of nurses however had not brought forth any concerns about being harassed after reporting the nurses. The Tribunal finds the statement was made by a third party and not the one whom the Appellant tried to speak with about the harassment.

[41] The Tribunal finds that the Appellant's testimony regarding the harassment to be credible and is consistent and that she was not provided with the opportunity to rectify the matter other than go directly to the grievance process to which she felt mentally and physically fit to pursue. The Tribunal prefers the Appellant's oral evidence over the one hearsay statement made by the Human Resources manager who did not work on the floor and would have witnessed the harassment.

[42] The Respondent presents the argument that the Appellant indicates she left her job due to stress on the advice of her doctor but unfortunately the medical note recently provided was obtained by a doctor after the fact and it appears that it has been produced primarily on what the Appellant has told the doctor given it was her first visit to the medical clinic. Additionally, the medical note provided is very self-serving which one can conclude is due to the unfavorable decision rendered.

[43] The Appellant presents the argument that she had no choice but to leave due to her mental health and well-being. The working conditions were intolerable and causing her to be overwhelmed, depressed and in fear of relapsing. She is a recovering alcoholic which is a mental illness and she was not able to get medical evidence or her records from her physician in Alberta but her Manitoba doctor believes her and supports that it was necessary to leave her employment and he provided two pieces of medical documentation.

[44] The Tribunal finds where the detrimental effect on one's health is being proffered as just cause a claimant must (a) provide medical evidence (b) attempt to resolve the problem with the employer; and (c) attempt to find other work prior to leaving.

[45] The Tribunal finds jurisprudence supports that medical evidence required in order to find just cause for leaving depends on "the facts and circumstances of...[the] case." (CUB 14805) For example, in CUB 14805, the claimant had just cause to leave her job without first

obtaining a medical certificate where she already knew that her boss's bad temper was aggravating her ulcer and already had medication for her ulcer.

[46] The Tribunal finds as in the case at hand and from the Appellant's oral evidence that she knew she is a recovering alcoholic; which is a mental illness and she knows the affect that working in intolerable working conditions could trigger a relapse. As well she testified that in order to maintain her sobriety she was instructed by her doctor in Alberta on several occasions to eliminate her stress and following the months of bullying at work she felt herself slipping into a deeper depression and knew that her only option was to leave her employment.

[47] The Tribunal finds the Commission was not satisfied with the medical evidence however the Tribunal finds that the Appellant was not able to obtain her medical information from Alberta as she did not have a family doctor that it would be released to in Manitoba and in short of travelling back to Alberta to obtain it in person, which was not an option, her only reasonable alternative would be to see a doctor Manitoba, to which she did.

[48] The Tribunal finds that that the Appellant did provide medical evidence however if the Commission it not satisfied there is jurisprudence that "It has been held that it is not essential to provide a medical certificate to establish that a claimant quit his employment due to medical reasons (CUB 14805, 18965 and 65097 as well as *Brisebois* (A-510-96)).

[49] Furthermore in CUB 65097 The Honourable R.J. Marin states:

"I am of the view the Board's analysis is not complete, and I therefore must set it aside. It is important for a Board to understand that, when health issues arise, they might not necessarily always be well documented. This is especially true of unrepresented claimants. In fact, the absence of a medical certificate should not of itself exclude medical reasons, a just cause to leave employment.

The Federal Court of Appeal was of that view in Brisebois (A-510-96). It is a view which obviously I am quite prepared to apply.

[50] And in *Brisebois* (supra) Justice Hugessen stated:

"We all agree that both the Umpire and the Board of Referees erred in finding that the claimant should have produced a medical certificate to justify her contention that she had no alternative but to quit her employment. (...) Since her credibility was not questioned, a medical certificate would have added nothing to her testimony.

[51] The Tribunal finds the Appellant was able to provide the Commission with medical documentation that clearly supports the doctor the Appellant seen in Manitoba, his opinion is that it was necessary for the Appellant to terminate her employment as her physical and mental health was being affected and that by doing so will allow her to continue to live a sober life. The Tribunal finds the doctor continued to support his first opinion in a second letter dated a month later.

[52] The Tribunal is satisfied that the medical evidence provided substantiates the Appellant had just cause to leave her employment as her employment was causing her a great deal of stress and anxiety and putting her in a position to relapse.

[53] The Tribunal must apply the test of whether the Appellant had a reasonable alternative to leaving her employment when she did. The Act imposes a duty on the claimant not to deliberately cause the risk of unemployment to occur. A claimant who has voluntarily left her employment and has not found other employment is only justified in acting in this way if, at the time she left, the circumstances existed which excused her from thus taking the risk of causing other to bear the burden of her unemployment. A claimant is responsible to exhaust all reasonable alternatives prior to placing themselves in a position of unemployment.

[54] The Tribunal finds from the evidence on the file and from the Appellant's oral evidence that she did try and speak to her manager but was not allowed a meeting and she knew without the support of management the grievance process would be futile and her mental well-being was too fragile.

[55] The Tribunal finds that the Appellant provided oral evidenced to support that she did search for employment prior to leaving by researching health facilities in the area as well as searching the Internet. The Tribunal finds from the Appellant's oral evidence that she believed

she would be able to find employment in the area. The Tribunal finds the fact the Appellant was able to secure part-time employment in a short time demonstrates she was making serious attempts to find employment prior to and once she arrived.

[56] The Tribunal relies on *Landry A-1210-92* where the Court concluded that it is not sufficient for the claimant to prove she was reasonable in leaving her employment, but rather the claimant must prove that after considering all of the circumstances she had no reasonable alternative but to leave her employment.

[57] Under subsection 30(1) of the Act, an employee is disqualified for receiving employment insurance benefits if she loses her job as a result of misconduct, or voluntarily leaves her job without just cause.

[58] The Tribunal the Appellant has proven she had no reasonable alternative but to voluntarily leave her employment therefore an indefinite disqualification should not be imposed.

CONCLUSION

[59] The appeal is allowed.

Teresa Jaenen
Member, General Division - Employment Insurance Section

ANNEX

THE LAW

29 For the purposes of sections 30 to 33,

(a) *employment* refers to any employment of the claimant within their qualifying period or their benefit period;

(b) loss of employment includes a suspension from employment, but does not include loss of, or suspension from, employment on account of membership in, or lawful activity connected with, an association, organization or union of workers;

(b.1) voluntarily leaving an employment includes

(i) the refusal of employment offered as an alternative to an anticipated loss of employment, in which case the voluntary leaving occurs when the loss of employment occurs,

(ii) the refusal to resume an employment, in which case the voluntary leaving occurs when the employment is supposed to be resumed, and

(iii) the refusal to continue in an employment after the work, undertaking or business of the employer is transferred to another employer, in which case the voluntary leaving occurs when the work, undertaking or business is transferred; and

(c) 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.

30 (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.