Social Security Tribunal of Canada | Tribunal de la sécurité sociale du Canada

Citation: *B. S. v. Canada Employment Insurance Commission*, 2016 SSTGDEI 154

Tribunal File Number: GE-16-1690

BETWEEN:

**B. S.**

Appellant

and

**Canada Employment Insurance Commission**

Respondent

# SOCIAL SECURITY TRIBUNAL DECISION

## General Division – Employment Insurance Section

DECISION BY: Teresa M. Day

HEARD ON: November 2, 2016

DATE OF DECISION: December 19, 2016

Canada

## REASONS AND DECISION

## PERSONS IN ATTENDANCE

The Appellant attended the hearing of his appeal via teleconference.

## INTRODUCTION

[1] The Appellant applied to renew his claim for employment insurance regular benefits (EI benefits). On his application, the Appellant indicated that he quit his job at Braden Burry Expediting Ltd. (BBE) on December 4, 2015 because of stress resulting from a lack of support from the employer and constraints the employer put on his ability to do his job. The Respondent, the Canada Employment Insurance Commission (Commission), investigated the reason for separation from employment and, on December 23, 2015, advised the Appellant that he was not entitled to EI benefits because the Commission had determined he voluntarily left his employment without just cause within the meaning of the *Employment Insurance Act* (EI Act).

[2] On January 16, 2016, the Appellant requested the Commission reconsider its decision, stating that he had just cause for voluntarily leaving the employment due to working conditions that constituted a danger to his health. On March 23, 2016, following an investigation, the Commission maintained its decision that the Appellant was disqualified from EI benefits because he voluntarily left his employment without just cause. The Appellant appealed to the General Division of the Social Security Tribunal of Canada (Tribunal) on April 27, 2016.

[3] The hearing was held by teleconference because that 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

[4] Whether an indefinite disqualification from EI benefits should be imposed upon the Appellant because he voluntarily left his employment at BBE on December 4, 2015 without just cause.

**EVIDENCE**

[5] The Appellant made an application to renew his claim for EI benefits on December 4, 2015 (GD3-3 to GD3-19). On his application, the Appellant stated that his last day of work for BBE was December 4, 2015 and gave his reason for separation as "Quit" (GD3-6). The Appellant completed a Quit Questionnaire in support of his application (GD3-10 to GD3-12), in which he stated that he quit his employment at BBE for reasons related to his work, which he explained as follows:

> "I accepted a 6 month contract as Assistant Manager of Operations of the facility which included Airline Services, Cargo Services and Warehousing. The position was temporary as the Operations Manager was on leave due to medical reasons. By week 6 of my employment it became clear that the support I needed to do my job was not forthcoming. The support needed was financial in that replacement of terminated employees would be done as quick as possible. The facility was operating on an average of 90 hours a week of overtime for my staff. As staff quit or were let go for performance issues, I tried to replace them as quick as possible as the learning curve for the positions was about 4 weeks. In other words, as staff left, overtime increased and stresses among the remaining employees, including myself increased. At week 6 (November 16), I was denied the resources to replace employees, despite the increased workload. Despite very justified Business Case that the replacements were more than necessary, I was still denied approvals to hire even one. The head count was 2 lower than when I began my contract 6 weeks earlier. This caused myself to become ill with anxiety due to increased stress level (I did not see a doctor). Also, about 4 weeks ago, the Operations Manager returned from leave and it became obvious that her leave was due to stress. I felt incapacitated to do the job I was contracted to do and saw no hope of a turn around from my increasing anxiety as the job became more impossible to complete. I provided my resignation to the company "due to personal reasons". (GD3-10 to GD3-11)

The Appellant described discussing the situation with his immediate boss as follows:

> "B. W. (Director of Operations). Funding was not available as the operating margin for BBE was so slim, it was impossible to hire more staff. When I explained that we were paying out 90 hours of overtime each and every week since June 2015, I was told that the funding was simply not there. At the time I was operating with 2 less staff than there were in September. I felt it to be an impossible situation and could see my health suffering (drinking, lack of sleep, irritable, arguing with spouse, child). In light of the fact that the Operations Manager had recently returned from the same type of illness, I was determined to not fall into the same trap. I had no choice but to resign before it caused more serious personal problems." (GD3-11)

The Appellant further stated that BBE was a small company, there was no other position he could be transferred to and his employment was a 6 month contract (GD3-12). He did not look for another job because of "short term contract and stress was taking over" (GD3-12).

[6] A Record of Employment (ROE) was issued on December 8, 2015 by BBE, which indicated that the Appellant worked there as Assistant Operations Manager from October 5, 2015 to December 3, 2015, and gave the reason for separation as "Quit" (GD3-19).

[7] On December 18, 2015, an agent of the Commission spoke with the Appellant regarding his reason for separation and documented the call in a Supplementary Record of Claim (GD3-21). The agent noted the Appellant's statements that he worked as an Assistant Manager of Operations and his job was maintaining and managing staff, and that his job was very stressful because he did not get any support from management. The agent further noted the Appellant's additional statements as follows:

> "Client said out of 25 employees, who the client was managing, 5 employees left/were terminated around the same time and client did not get the permission from his manager to replace them. Client said he asked his manager's permission on 2 or 3 occasions to hire more people but his request was turned down. As a result, client and staff experienced an increased work load and lots of stress. Client said he talked to the President (H.) of the company about this issue, but she referred the client back to the manager. Client said he was in counselling for anxiety and stress between Apr 2015 and July 2015, but client did not get treatment and did not see a doctor while he was working for this employer. Client said he had a meeting with the manager and the president on November 30, 2015 and client's request to hire more people was turned down again. This was the time when the client decided to quit. Client said he did not think about asking for a leave of absence as client did not think that the employer would have approved it given that client's position was a term position. Client stated the employer would not have been able to do anything to accommodate him other than allowing him to hire more staff. Client said essentially in his job he was covering the duties of the Operations Manager. Client said when the client was hired, the Operations Manager was on a leave due to stress related reasons."

[8] By letter dated December 23, 2015, the Commission advised the Appellant that he would not be paid EI benefits because he voluntarily left his employment with BBE on December 3, 2015 without just cause (GD3-23 to GD3-24).

[9] On January 18, 2016, the Appellant requested the Commission reconsider its decision to deny the Appellant's claim for benefits (GD3-25 to GD3-28), stating that he believed he had just cause to leave the employment due to "working conditions that constituted a danger to my health" (GD3-27). The Appellant included a letter (GD3-27 to GD3-28) in which he described in detail:

a) How in the fall of 2012, he was involved in a "near death experience" on his way to work, when he had only a split second to swerve onto the shoulder and avoid a highway speed collision with an out-of-control truck, which then slammed into the truck in front of the Appellant, destroying both vehicles. "From that point on, I suffered great anxiety each and every morning while commuting" (GD3-27).

b) How in the years following he was under a doctor's care for anxiety and depression, conditions which he believes directly led to his termination from his previous employment in February 2015.

c) How in March 2015, his doctor referred him to The Primary Care Network for counselling related to his high levels of anxiety and stress. "I attended counselling sessions from March through July of 2015, all the while searching for suitable employment" (GD3-27).

d) How shortly after qualifying for EI benefits, he went for a job interview at BBE.

   "*I went for an interview where I was informed that their current Operations Manager walked off the job and they would not be taking her back even if she did return. As the current Operations Manager was still employed with BBE, I was offered a 6 month contract as an Assistant Operations Manager."*

e) How the commute to BBE meant he again had to pass by the scene of the terrible accident that had "caused me all the anxiety in the past". Once again, the Appellant "found myself having stress related issues with my health".

f) How the position he was hired for "was a lot more than anticipated" and he experienced additional anxiety-related conditions.

g) How at the end of October 2015, the Operations Manager "came back to BBE despite assurances to me that she would not return".

*"By mid-November, I had lost about 20% of my staff through voluntary departure, maternity leave and terminations and yet I was not receiving the approvals to rehire adequately. This only added to my anxiety and it became apparent that the extra salary that BBE took on by hiring me and having the Operations Manager return, meant replacement hires would not get approved." (GD3-27)*

h) How he never stopped looking for work while employed at BBE.

i) How he came to his decision to leave:

*"Dr. Lohlun left family practice in September. Some of the counselling I received through Primary Care Network spoke of removing yourself from the situation if you need to do so to ensure your health safety. I did not think it was necessary to see another doctor. By the beginning of December, the situation became unbearable and I could not take it any longer. On November 30, I had a meeting with the President of BBE and the Director of Operations (B. W.) regarding my concerns and the support needed to fully carry out the position I was hired for. I was told that margins are slim and approvals would not be forthcoming to replace the staff I had lost. I felt that to be the last straw and weighing the options, it only made sense to voluntarily leave the employment at Braden-Burry Expediting Ltd. due to a danger to my health." (GD3-28)*

[10] Between March 16–23, 2016, a different agent of the Commission spoke with both the Appellant and representatives of the employer regarding his request for reconsideration, and documented their conversations in Supplementary Records of Claim (GD3-29 to GD3-33). The agent noted their statements as follows:

(a) The Appellant stated that he quit because he had a lot of anxiety and stress due to the fact that he was told the Operations Manager was not coming back, and then she came back; that staff were leaving and he needed more staff to function, but was told the employer would not be hiring replacements; and that to get to work at BBE, he was required to go past a spot where he had witnessed a horrific traffic accident. The Appellant's family doctor quit his practice in September, so the Appellant was not able to speak to him, but had started seeing another doctor after quitting his job at BBE.

(b) B. W., the Director of Operations, confirmed the Appellant was hired as Assistant Director of Operations on a 6-month contract, but could not state whether the Appellant was told the Operations Manager would be coming back or not. B. W. confirmed the Appellant had raised the staffing issues with him, but stated the employer was not able to hire more staff; and that the Appellant had advised he was stressed, but did not go into further detail with him. The employer provided a copy of the Appellant's resignation E-mail (GD3-37), in which he wrote that he decided to leave BBE for "personal reasons"

(c) The Appellant stated he had spoken to his doctor (on March 22, 2016) and obtained a note stating that he has been unable to work since January 2016 due to medical reasons. A copy of the medical note is at GD3-38.

[11] By correspondence dated March 23, 2016, the Commission advised the Appellant that its decision of December 23, 2015 was maintained (GD3-34 to GD3-35).

[12] With his appeal materials (GD2), the Appellant included a letter from Primary Care Network regarding the mental health counselling the Appellant underwent for anxiety and stress (GD2-9), as well as a copy of an E-mail exchange between the Appellant and B. W. on November 23 and 26, 2015 regarding the Appellant's requests to hire additional staff (GD2-10 to GD2-11).

***At the Hearing***

[13] The Appellant testified as follows:

a) When he went for the job interview at BBE, he was told "point blank" that the Operations Manager ("K.") had been "demoted" from her position as Regional Operations Manager and had "walked out". The employer hadn't "heard from her since" and advised the Appellant "there's no way she's coming back".

b) The Appellant was told BBE could not offer him K.'s position as Operations Manager because "their lawyers" told them they had to wait six (6) months before they could

terminate her. So they offered him a six (6) month contract as Assistant Operations Manager. However, he was unequivocally told that, after the six (6) months, he would be made the Operations Manager and his salary would increase accordingly.

c) There was no one at BBE to train him on the Operations Manager position. The Procurement Manager tried to help, but she freely admitted she did not know the operations side of things.

d) Approximately 2-3 weeks after starting the job, the Appellant was called into a meeting with BBE's President and advised that K. was coming back to work at BBE because "their lawyers said they had to take her back". K. was going to be assigned "special projects" to work on with B. W., the Director of Operations.

e) The Appellant was told "nothing changes" and "after six (6) months, we're still going to terminate her and you can have her job".

f) In the days after this meeting, the Appellant was given additional information about the employer's strategy with respect to K. Specifically, the Appellant was advised that K. had "claimed stress leave" but the employer did not support her claim and instead demoted her. K. "had a hissy fit and walked out" in late September. BBE was "in a panic" when they hired the Appellant to start October 5, 2015 because K. "had a lot of information in her head and had wiped her computer clean". BBE was in an "awkward position" because "they needed K but they also wanted to get rid of her".

g) K. eventually provided BBE with a doctor's note stating she had to be off work for 30 days due to stress.

h) During K.'s leave, there were many staffing issues and a high rate of turnover. The Appellant was "handcuffed" in his management of operations by the employer's refusal to authorize any new hires. The Appellant was highly stressed trying to juggle the staffing needs with the dwindling number of employees and the overtime costs.

i) When K. returned to work after her 30-day leave, the Appellant was told to "learn the ropes" from her because she was going to be fired, and that he would need to be ready for the permanent position of Operations Manager.

j) The Appellant was extremely stressed about the duplicitous position the employer had put him in.

k) Nonetheless, the Appellant began working "side by side" with K., who confided "her side" of the story to the Appellant. K. told him that BBE had started to refuse to authorize hires and/or provide her with enough staffing to operate the business. K. described the high levels of stress she experienced as a result, culminating in her "walking out" because she couldn't cope. K. told the Appellant that "somebody said she'd erased all the files", but K. denied it and said the employer "just didn't know how to access the common drive on the computer". K. also told the Appellant that "someone said she's on camera taking files out of the building", but K. said they were "file folders with her kids' crafts in them". K. also described a number of things BBE was "using against her" to block her claim for paid stress leave.

l) As K. was sharing these details with the Appellant, the employer let the Appellant know that they had "influence" with "the company's benefits provider" and had "made sure K. did not get disability or stress benefits". The employer continued to instruct the Appellant to "learn everything I could from her" and to get all of the information" K. was "carrying around in her head" because they were "gearing up to fire her and then they'd renegotiate with me at the end of my six (6) month contract".

m) The situation was extremely uncomfortable for the Appellant, who "now realized K. hadn't done anything wrong". The Appellant himself felt highly stressed by the employer's response to the staffing issues and clearly understood how K. came to require stress leave from the job. To be asked by the employer to help facilitate K.'s termination by easing the transition of Operations Managers for BBE was not only "incredibly stressful", but "not the job I signed up for".

[14] The Appellant testified that he took the job at BBE on the understanding that K. had quit when she "walked out", and would not be returning to BBE. When K. did return, it was her understanding that she was back "permanent, full-time" on special projects, but "here she was training me for her job" with "no idea she was about to be terminated". The Appellant became very anxious and wondered: "If they're doing this to her, what are they going to do to me?"

[15] The Appellant referred to "the letters I've written" (contained in GD3 and GD2) describing the stress of being unemployed after so many years in the workforce, of starting a new job and quickly finding out the employer had no intention of providing the staff that was required for him to adequately perform in that job, and of having to drive past the very spot "where I'd nearly been killed". However, the Appellant testified that his greatest stress – the one that he had alluded to previously when he cited the Operations Manager's return to work – came approximately 4 weeks into the job, when K. returned and he was told to learn the ropes from her because she was going to be fired and he would take her permanent position. The Appellant testified at length about the stress and anxiety he experienced as a result of the position the employer placed him in with K. The Appellant stated: "It's good to get this off my chest. It's been a long time coming."

**SUBMISSIONS**

[16] The Appellant submitted that he had just cause to leave his job at BBE because his work environment had become so unbearable and was so stressful as to endanger his health. The employer made him privy to the fact they were setting up to fire a long-term, full-time permanent employee and required his assistance to do so, and that his promised move from a 6-month contract position to permanent employment depended on the termination of this individual.

[17] The Commission submitted that the Appellant did not have just cause for leaving his employment because he failed to exhaust all reasonable alternatives prior to leaving. Considering all of the evidence, a reasonable alternative to leaving would have been to seek and secure alternate work or obtain a medical note showing he was advised to leave his job. As the Appellant did not pursue any of these alternatives, the Appellant failed to prove he left his employment with just cause.

**ANALYSIS**

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

[19] Section 30 of the EI Act stipulates that a claimant who voluntarily leaves his employment is disqualified from receiving any benefits unless he can establish "just cause" for leaving.

[20] It is a well-established principle that "just cause" exists where, having regard to all the circumstances, on balance of probabilities, the claimant had no reasonable alternative to leaving the employment (*White 2011 FCA 190, Macleod 2010 FCA 301, Imram 2008 FCA 17, Astronomo A-141-97, Tanguay A-1458-84*).

[21] The list of circumstances enumerated as "just cause" in subsection 29(c) of the EI Act is neither restrictive nor exhaustive, but delineates the type of circumstances that must be considered (*Campeau 2006 FCA 376; Lessard 2002 FCA 469*). It is not imperative that the Appellant fit precisely within one the factors listed in subsection 29(c) of the EI Act in order for there to be a finding of "just cause". The proper test is whether, on the balance of probabilities, the Appellant had no reasonable alternative to leaving his employment, having regard to all the circumstances, including but not limited to those specified in paragraphs 29(c)(i) to (xiv) of the EI Act (*Canada (Attorney General) v. Landry (1993) 2 C.C.E.L. (2d) 92 (FCA)*).

[22] The initial onus is on the Commission to show that the Appellant left his employment voluntarily; once that onus is met, the burden shifts to the Appellant to show that he left his employment for "just cause" (*White, supra; Patel A-274-09*).

[23] The Tribunal finds that the Appellant left his employment with BBE voluntarily. It is undisputed that the Appellant took the initiative to sever the employment relationship when he notified the employer of his intention to resign and then left his employment on December 3, 2015 and did not return to his job thereafter, at a time when the employer still had work for him. The effective "quit" date is, therefore, December 3, 2015.

[24] The onus of proof then shifts to the Appellant to prove that he had no reasonable alternative to leaving his job when he did.

[25] The Tribunal must consider the test set out in sections 29 and 30 of the EI Act and the circumstances referred to in subsection 29(c) of the EI Act, and determine whether any existed at the time the Appellant left his employment. These circumstances must be assessed as of that time (*Lamonde A-566-04*), namely the day he quit his job: **December 3, 2015**.

[26] The Appellant submitted that he quit his job at BBE because his work environment had become so unbearable and was so stressful as to endanger his health.

[27] The Tribunal first considered the Appellant's submission that his job was adversely affecting his health. Paragraph 29(c)(iv) provides that an employee has just cause where "working conditions that constitute a danger to health or safety" exist and he or she has no reasonable alternative to leaving the employment.

[28] The jurisprudence has held that where the detrimental effect on one's health is being proffered as just cause, a claimant must: (a) provide medical evidence (*CUB11045*); (b) attempt to resolve the problem with the employer (*CUB21817*); and (c) attempt to find other work prior to leaving (*CUBs 18965, 27787*).

[29] While the Appellant has described the stress and anxiety he experienced while working at BBE in vivid detail, by his own admission, he did not consult a doctor or any other medical practitioner in connection with the health issues he experienced as a result (GD3-10 to GD3-11). While the Tribunal acknowledges that stress and anxiety can lead to serious health issues and can, indeed, adversely affect one's personal life and relationships, the Appellant has no medical evidence to demonstrate that the job conditions at BBE were, in fact, injurious to his mental or physical health. Further, while there is ample evidence that the Appellant sought the employer's support to rectify the staffing issues through new hires, there is no evidence that the Appellant discussed his stress and anxiety with the employer, or the consequences the staffing issues and the duplicitous position he was put in *vis-à-vis* K. were having on his health. Finally, the Appellant admitted he did not attempt to find other work prior to leaving (GD3-12).

[30] The Tribunal therefore finds that the Appellant has not met the onus on him to prove that his work conditions at BBE were adversely affecting his health such that he had no reasonable alternative but to quit his job on December 3, 2015. The Tribunal finds that a

reasonable alternative would have been to seek medical attention for the health issues he was experiencing and obtain the documentation to support a medical leave of absence or quit on the advice of a doctor, or to continue working until other, more suitable, employment was found.

[31] In coming to its decision to disqualify the Appellant from EI benefits, the Commission appears to have placed great emphasis on the Appellant's concern for his health and unhappiness with the lack of staff as his reasons leaving his job, and the fact that the Appellant did not see a doctor prior to quitting. However, consideration must also be given to the evidence and submissions that the Appellant had serious workplace-related reasons for leaving his job. While the Tribunal acknowledges that the Appellant did not provide the level of detail on the issues he was experiencing *vis-à-vis* K.'s return to work until the hearing stage, and further acknowledges Federal Court of Appeal's decision in *Bellefleur v. Canada (AG), 2008 FCA 13*, which provides that generally more weight is given to an initial statement rather than to subsequent statements made following an unfavourable decision from the Commission, it was nonetheless quite clear from the Appellant's testimony at the hearing that the Appellant was so uncomfortable with the position the employer had put him in in enlisting his assistance in facilitating the termination of K. that it is understanding he would have preferred to avoid talking about the experience altogether. However, this in no way takes away from the Appellant's experiences, or negates the fact that they were quite clearly among the reasons why the Appellant left his employment. The Tribunal must, therefore, decide whether the workplace circumstances alleged by the Appellant were just cause for voluntarily leaving his employment at BBE.

[32] The Tribunal considered the Appellant's submission that his work environment had become so intolerable that he had to quit his job on December 3, 2015.

[33] Unsatisfactory working conditions will only constitute just cause for leaving an employment where they are so manifestly intolerable that the claimant had no other choice but to leave (*CUB 74765*). For the reasons set out below, the Tribunal finds that such conditions did, in fact, exist for the Appellant at BBE as at December 3, 2015, and that it would not have been reasonable for the Appellant to attempt to resolve them with the employer or continue working until he had secured other employment.

[34] The Tribunal considered the Appellant's statements as to his realization that the prior Operations Manager (K.) had been on stress leave from the job he was now doing under the same conditions and while experiencing very high stress himself (on his application for EI benefits at GD3-10 and GD3-11), as well as his very detailed explanation in his Request for Reconsideration as to what he had been told by the employer in his job interview (namely, that K. walked off the job and they would not be hiring her back even if she did return) and his subsequent hock to learn that K. would, in fact, be returning (GD3-27 and GD3-28). The Tribunal accepts the credible, highly detailed and consistent testimony of the Appellant regarding the employer's statements to the Appellant about his future at the company, namely that the former Operations Manager (K.) had "walked off the job" and he would become the permanent full-time Operations Manager after his initial 6 month contract.

[35] The Tribunal further accepts the compelling testimony of the Appellant as to the employer's complete about-face after the Appellant was on the job, namely that BBE was actually only in the process of preparing to terminate K., but wanted the Appellant to first learn everything he could from her and get all the information the employer believed K. was "carrying around in her head". The Tribunal accepts the Appellant's evidence that he was extremely stressed by what the employer was asking him to do – and that his stress level only escalated as he began working with K. and was told her version of events. Taken with the credible and striking testimony about the employer's breaches of confidentiality in sharing with the Appellant the details of K.'s disability claim and the employer's alleged influence on the benefits provider to deny her claim, the Tribunal has little difficulty in accepting the Appellant's testimony that he could not handle the stress anymore and in concluding that his workplace environment had become genuinely intolerable for him by the time he left.

[36] While the Tribunal acknowledges that the Appellant left his employment abruptly, without attempting to resolve his concerns with the employer or without seeking another job before he quit, the Tribunal notes that it was the Appellant's employer who made him privy to the fact they were setting up to fire a long-term, full-time permanent employee and required his assistance to do so, specifically in facilitating a smooth transition from that employee by soliciting her personal knowledge of the position and other information the employer believed she had and wanted to obtain. The Tribunal is deeply troubled by the exploitive nature of what

the employer was asking the Appellant to do, not to mention the implicit threat to the Appellant in the fact that the employer's promise to move him from a 6-month contract position to permanent employment depended on this termination. Having heard and considered the Appellant's testimony, the Tribunal is left with no doubt that the Appellant became wholly unable to cope with the employer's demand to ultimately undermine K. and the duplicity in this particular workplace, and that it would have been futile to involve the employer in sorting this out. The Tribunal therefore finds that attempting to resolve the workplace issue with the employer or continuing to work while seeking other, more suitable employment were not reasonable alternatives for the Appellant.

[37] The Tribunal finds that the Appellant has met the onus on him to prove that his work environment had become so intolerable such that he had no reasonable alternative but to quit his job on December 3, 2015.

## CONCLUSION

[38] Having regard to all of the circumstances noted above, the Tribunal finds that the Appellant has proven he was left with no reasonable alternative but to leave his employment with BBE on December 3, 2015. The Tribunal finds that the Appellant has demonstrated just cause for voluntarily leaving his employment at BBE and, therefore, is not disqualified from receipt of EI benefits pursuant to section 30 of the EI Act for doing so.

[39] The appeal is allowed.

**Teresa M. Day**

**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.

**(3)** If the event giving rise to the disqualification occurs during a benefit period of the claimant, the disqualification does not include any week in that benefit period before the week in which the event occurs.

**(4)** Notwithstanding subsection (6), the disqualification is suspended during any week for which the claimant is otherwise entitled to special benefits.

**(5)** If a claimant who has lost or left an employment as described in subsection (1) makes an initial claim for benefits, the following hours may not be used to qualify under section 7 or 7.1 to receive benefits:

**(a)** hours of insurable employment from that or any other employment before the employment was lost or left; and

**(b)** hours of insurable employment in any employment that the claimant subsequently loses or leaves, as described in subsection (1).

**(6)** No hours of insurable employment in any employment that a claimant loses or leaves, as described in subsection (1), may be used for the purpose of determining the maximum number of weeks of benefits under subsection 12(2) or the claimant's rate of weekly benefits under section 14.

**(7)** For greater certainty, but subject to paragraph (1)(a), a claimant may be disqualified under subsection (1) even if the claimant's last employment before their claim for benefits was not lost or left as described in that subsection and regardless of whether their claim is an initial claim for benefits.