



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

[TRANSLATION]

Citation: *L. B. v. Canada Employment Insurance Commission*, 2017 SSTGDEI 44

Tribunal File Number: GE-16-3413

BETWEEN:

L. B.

Appellant

and

Canada Employment Insurance Commission

Respondent

SOCIAL SECURITY TRIBUNAL DECISION
General Division – Employment Insurance Section

DECISION BY: Bernadette Syverin

HEARD ON: March 9, 2017

DATE OF DECISION: April 4, 2017

REASONS AND DECISION

PERSONS IN ATTENDANCE

The Appellant, L. B., attended the hearing. The Respondent, the Canada Employment Insurance Commission (Commission), did not attend.

INTRODUCTION

[1] The Appellant filed a claim for Employment Insurance benefits on May 26, 2016. Her claim was refused on June 27, 2016, because the Commission found that the Appellant had voluntarily left her job without just cause within the meaning of the *Employment Insurance Act* (Act).

[2] The Appellant requested a reconsideration of the decision on June 27, 2016. A reconsideration decision rendered on August 8, 2016, upheld the decision rendered on June 27, 2016.

[3] On September 8, 2016, the Appellant appealed the reconsideration decision pertaining to her that the Commission had rendered on August 8, 2016.

[4] On September 19, 2016, the Tribunal notified the employer that if it wanted to be included in the case as an “added party,” it would have to file the appropriate request with the Tribunal no later than October 4, 2016. The Employer did not respond to this request.

[5] In accordance with subsection 10(1) of the *Social Security Tribunal Regulations*, the Tribunal found that the decision did not directly pertain to the employer; in this way, the employer was not added as an “added party.”

[6] 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 as quickly as circumstances, fairness and natural justice permit.

ISSUE

[7] The Tribunal must determine whether, under sections 29 and 30 of the Act, there is merit in the appeal of the Commission's decision regarding the Appellant's disqualification from receiving Employment Insurance benefits for failing to prove that she had had just cause for leaving her employment.

EVIDENCE

[8] A Record of Employment specifies that the Appellant had worked from August 10, 2015, to May 6, 2016, and that she stopped working after leaving voluntarily. (GD3-13)

[9] In a letter dated May 26, 2016, the Appellant explained that there were conflicts between herself and the company owner, Mr. M. K., and that she had discussed the situation with Mr. M. K., as well as her immediate supervisor, on many occasions but to no avail. (GD3-14 to GD3-17)

[10] The Appellant provided the following evidence to the Commission:

- a) On June 15, 2016, during a phone conversation with the Commission, the Appellant reiterated the content of her letter dated May 26, 2016. Incidentally, she also argued that the fact that she had to punch her hours did not bother her; her only concern was about the fact that she often had to leave to make purchases or deposits at the bank, and that she had to ask how it was going to work. Her leaving was motivated by the last disrespectful discussion between the Appellant and the owner, Mr. M. K. She felt that the situation was going to improve with time, and that it is why she did not look for work before quitting her job. (GD3-to GD3-18)
- b) In her application for reconsideration of a decision filed on July 7, 2016, the Appellant provided details on the nature of her work and the tasks that she had to carry out. She explained that she had been hired as administrative assistant and that she was also carrying out tasks related to accounting, such as accounts payables and receivables. She had to report to Mr. G. P., but he was rarely in the office, having to manage various

construction sites. The Appellant also recounted an event that had taken place a few days before her leaving on April 26, 2016, when Mr. M. K. needed a financial statement to be modified in order to redact the names of two associates. The company accountant did not want to modify the financial statement; this task was therefore reassigned to Mr. M. K.'s daughter. Having realized that the modifications had not been made, the Appellant contacted the accountant. The Appellant stated that, a little time after, Mr. M. K. came to see her "in a fit of rage and threatened me; he was aggressive, he pointed his finger at me and shouted that I didn't understand anything; that I had no business contacting the accountant." Finally, the Appellant reported having been on the lookout for job offers and she mentioned a few names of companies where she had sought job offers. (GD3-26)

- c) On August 8, 2016, the Appellant claimed not to have waited to find another job before leaving her job, because the situation was unbearable. She claims to have left her job hastily, because it was the second time in a week that Mr. M. K. had yelled at her. Mr. M. K. pointed his finger at her and said "I'm not going to let this slide." the Appellant felt threatened. Although Mr. M. K. did not always yell, this behaviour of expressing himself by raising his voice happened a few times during her job. Although her office was situated on the second floor, far from Mr. M. K., he was on the second floor every day during the winter. The Appellant claimed to have expressed to Mr. M. K. that she did not like it when he yelled and that she did not like the manner in which he spoke to her, but that she did not try to find solutions with him. (GD3-28)

[11] For his part, the employer, made the following statements to the Commission:

- a) On June 15, 2016, the Commission contacted the owner's daughter, G. K., who works for Mr. M. K.'s other company, X Solution. G. K. stated that a few days before the Appellant's leaving, X GM had implemented a new policy to the effect that from then on, all employees had to punch their hours. According to G. K., the Appellant did not like this new policy, having been paid for 40 hours and given that her schedule was not verified while she could possibly do between 35 and 36 hours instead of 40 hours. The Appellant sometimes had to leave to make deposits at the bank while her

work hours were not verified. Furthermore, the Appellant was with the owner, Mr. M. K., for about 1 or 2 hours a week, but the Appellant had an immediate supervisor named G. P. The Appellant resigned, leaving a message on her supervisor's voicemail notifying him of her resignation. (GD3-19)

- b) On June 15, 2016, the Appellant's immediate supervisor, Mr. G. P., confirmed that, on the day before her leaving, the Appellant had spoken to him about a discussion that had taken place with the company owner that she had not appreciated. The Appellant had told him that she was thinking about leaving her job, but that she could stay as long as it took to find a replacement. The next day, the Appellant left a message indicating that she had resigned. (GD3-19)
- c) On August 8, 2016, G. K. confirmed that there was a personality conflict between the Appellant and Mr. M. K. The Appellant had been the spouse of best friend of the owner, M. K., for 20 years. Furthermore, the owner was in the office about three hours a week. The Appellant felt spied on in everything she did. (GD3-27)

[12] In her appeal notice to the Tribunal, the Appellant stated that the Commission had given its decision on an erroneous version of the facts in considering the employer's version. (GD2-1 to GD2-11)

[13] At the hearing, the Appellant recalled the circumstances that led to the rupture of the employment link that existed between her and her former employer, and she stated the following:

- a) The Appellant explained that her former employer, X GM, is a business working in the field of construction. The business specializes in repairing water main breaks. The company comprises four associates, including the owner, Mr. M. K., the Appellant's immediate supervisor, Mr. G. P. The two other associates were not working in the office and they were responsible for the manufacturing of the piping necessary for the reparation of water main breaks. The Appellant voluntarily left her job because certain company practices were deceitful and contrary to her values, namely the following:

- 1) The Appellant confirmed that, during the exercising of her functions as administrative assistant, the owner M. K. forbade her from disclosing information on the sums withheld in the associates' bank accounts. Therefore, she often had to lie to the associates when they required information.
 - 2) What is more, on her last day of work, the owner, M. K., needed the information on the two associates appearing on the financial statements to be redacted as part of a bail application for a money loan. As the accountant had refused to do this task, Mr. M. K. needed the Appellant to redact the information. The Appellant asked Mr. M. K. to explain to her why she had to be the one to do it. Mr. M. K. simply told her that she had to do it. The Appellant refused to do this task, because she found this practice shady and because she feared that, in the event of a government audit, she would be reprimanded for doing so.
 - 3) Furthermore, in order to work on the construction sites, G. P., the Appellant's immediate superiors, needed a permit from the *Régie du bâtiment du Québec* ([unofficial translation] "Quebec building authority") or RBQ. To do so, G. P. needed to write an exam that would assess his professional skills. However, G. P., did not have the time to take the exam. The RBQ requires that there be two people present within the company to act as guarantor for a permit application. Yet, within the framework of the permit application of his former employer, one of the guarantors does not work for the company. The RBQ permit was issued and, when the Appellant received calls for the person specified on the RBQ permit, she had to lie by saying that the person was not there, knowing full well that the person does not work for the company.
- b) The Appellant specified that she had not quit her job due to a personality conflict as the employer claimed in Exhibit GD3-18.
- c) Incidentally, the employer's statement in Exhibit GD3-19 to the effect that she resigned by leaving a voicemail message is false, because the Appellant came back to the office

the day of her leaving and returned the keys to Ms. G. K. while explaining to her the reason for her leaving.

- d) Regarding the employer's statement in Exhibit GD3-27 indicating that the Appellant's spouse is Mr. M. K.'s best friend, the Appellant does not find this detail to be pertinent. However, she admits to having stood alongside Mr. M. K. on a few occasions during the years prior to her starting work, but that she did not consider him a friend. Furthermore, contrary to what is indicated by Ms. G. K., Mr. M. K. was on the 2nd floor regularly and not just for three hours a week.
- e) Regarding the attempts to find a job before voluntarily leaving her job, the Appellant specified that she had not actively searched for a job. However, while she was still employed, she sent her résumé to a few businesses. She hoped that the situation would improve, because she did not want to quit her job.
- f) The Appellant also reiterated that she had discussed the situation with her immediate supervisor, G. P., on several occasions. However, G. P. did not intervene and told her to "let it go." She also attempted to discuss it with Mr. M. K., but that was a moot point.
- g) Finally, the Appellant expressed the fact that the working atmosphere had become unbearable; she was mentally distressed. Physically, she had heart palpitations. Furthermore, in the days prior to her voluntary leaving, the Appellant was afraid of going back to the office, because she was still wondering what her employer was going to accuse her of that day. She felt diminished and incompetent, and she had lost all confidence in herself.

PARTIES' ARGUMENTS

[14] The Appellant has argued that she voluntarily left her job due to conflicts that existed between herself and the business owner, M. K. She tried on a few occasions to rectify the situation with her immediate supervisor and Mr. M. K., but to no avail. Given the circumstances, her voluntary leaving was the only reasonable alternative.

[15] The Appellant claims to have left her job because certain company practices left much to be desired, because she was required to do tasks that ran contrary to her values, such as document falsification, and because she often had to lie, since she was forbidden from disclosing information to certain individuals.

[16] The Appellant stated that, before quitting her job, she did job searches that were unsuccessful.

[17] The Appellant argues that the Commission's decision was made based on the testimony of the owner's daughter, who does not even work for the X GM company. In this way, the decision is based on an erroneous finding of fact.

[18] The Commission finds that the facts in the docket do not show that the Appellant's situation was so unbearable that quitting her job was the only reasonable alternative. Occasional friction, a certain animosity or a conflict by no means improve a work environment, but they do not in and of themselves give a person just cause for leaving their employment. If each person makes a reasonable effort to accommodate differences and find a common ground, the situation should not degenerate into constant or irresolvable conflict.

[19] The Commission maintains that the Appellant did not have just cause for leaving her employment because she failed to show that she had exhausted all reasonable alternatives before leaving her job.

ANALYSIS

[20] The relevant legislative provisions are reproduced in an appendix to this decision.

[21] As we are told by the Supreme Court of Canada, the purpose of the Act is to compensate persons whose employment has terminated involuntarily and who are without work: *Gagnon*, 1988 CanLII 48 (SCC), [1988] 2 S.C.R. 29. In this way, claimants who leave their job voluntarily will not be eligible for Employment Insurance benefits unless they can establish that they had just cause for doing so, under sections 29 and 30 of the Act.

[22] It is firstly incumbent upon the Commission to prove that leaving was voluntary and upon the claimant to show that they had just cause in voluntarily leaving. (*Green*, 2012 FCA 313; *White*, 2011 FCA 190; *Patel*, 2010 FCA 95).

[23] In this case, the Appellant stated in her benefit claim that she had voluntarily left her job. This fact is furthermore corroborated by the Record of Employment issued by the employer, and the employer also stated to the Commission that the Appellant had voluntarily left her job.

[24] The Tribunal finds that the Appellant voluntarily left her employment. Therefore, the Appellant must prove that she had no reasonable alternative to quitting her job.

[25] The test to determine whether the claimant had just cause to leave her employment under section 29 of the Act is whether, having regard to all the circumstances and on a balance of probabilities, the claimant had no reasonable alternative to leaving her employment. (*White*, 2011 FCA 190; *Macleod*, 2010 FCA 301; *Imran*, 2008 FCA 17)

[26] In this case, the Appellant exhibited two factors that contributed to her decision to voluntarily quit her job. In particular, she argued:

- a) that certain practices by the employer were deceitful and contrary to her values; and
- b) that there were conflicts between herself and her superior M. K.

[27] The Tribunal will analyze each of the above-mentioned factors in order to determine whether, having regard to all the circumstances, the Appellant had no other reasonable alternative but to leave her job voluntarily.

The employer's practices were deceitful and contrary to values.

[28] The Appellant has argued that one of the circumstances that led to her leaving is the fact that certain practices by the employer were deceitful and contrary to her values. The Tribunal emphasizes that although this circumstance does not figure into the reasons listed in paragraph 29(c), a claimant does not necessarily have to meet one of these criteria for there to be "just cause." (*Campeau*, 2006 FCA 376; *Lessard*, 2002 FCA 469) Thereby, the Tribunal will

analyze this circumstance in order to determine whether, having regard to the circumstances, the Appellant had no other choice but to voluntarily leave her job.

[29] First of all, the Tribunal indicates that the Commission did not submit arguments with respect to this aspect of the docket, despite the fact that the Appellant alleged her facts during the administrative review process and in her notice of appeal. Furthermore, the Commission does not seem to have questioned the employer about the Appellant's allegations on deceitful practices. The Tribunal's assessment of the evidence and its probative value will thereby be based solely on the Appellant's version.

[30] The Appellant testified by answering the questions frankly and straightforwardly. The testimony did not include incoherencies or contradictions with respect to the other evidence before the Tribunal. Thereby, the Tribunal determines that the Appellant was a credible witness.

[31] According to the Appellant's testimony, she was bound to silence with respect to the financial information potentially disclosed to the two associates responsible for the manufacturing of the pipes. In this way, when these associates asked for information, the Appellant had no other choice but to lie to the associates in order to obey her employer's order not to disclose the information.

[32] The Appellant has also argued that the RBQ permit that her immediate supervisor, G. P., was using for his work on the construction sites was obtained in violation of the RBQ rules. In fact, the RBQ requires that there be two people present within the company to act as guarantor for a permit application. Yet, within the context of the permit application of his former employer, one of the guarantors does not work for the company. The Appellant was thereby obliged to lie when she received calls asking to speak to the signing guarantor of the permit application, who no longer worked for the company.

[33] Finally, the Appellant argues that her employer attempted to force her to falsify financial statements in order to remove the names of the associates. The Appellant discussed this task with her superior in order to find out why the accountant could not accomplish this task, but to no avail. The Appellant refused to carry out this task, because it involved document

falsification. She found the practice deceitful and feared that this act of document falsification could have adverse consequences for her within the context of a government audit.

[34] The Appellant explained that she did not feel comfortable always having to lie, that it was against her values and her integrity. The environment was becoming a very difficult one in which to work. However, was voluntarily leaving her job the only reasonable alternative?

[35] In *Landry* (A-1210-92), the Federal Court of Appeal specified that it is not enough that a claimant proves that they acted reasonably in quitting their job, because a reasonable ground can constitute a good reason, but it does not necessarily equate to just cause. It must be established that, having regard to all the circumstances of the case, leaving voluntarily constituted the only reasonable alternative for the claimant.

[36] With respect to the fact that the employer asked the Appellant to falsify the financial statement, the evidence in this regard does not show that the Appellant had to quit her job for that reason. In fact, according to the Appellant's testimony, this incident took place on her last day of work and was not a usual practice. Incidentally, according to the Appellant's testimony, this task was ultimately carried out by a person other than the Appellant.

[37] In light of the Appellant's testimony, the Tribunal is convinced that the fact of having to lie frequently had an impact on the performance of her tasks as administrative assistant. However, the Tribunal finds that, in these circumstances, the Appellant had reasonable alternatives other than voluntarily leaving her job. For example, the Appellant could have waited to find herself a job that more closely matched her expectations before voluntarily leaving her job.

Conflicts

[38] The Appellant has also argued that her voluntary leaving was tied to a work situation having become intolerable due to a conflict that existed between herself and one of her superiors, Mr. M. K. As a result, the Tribunal considered paragraph 29(c)(x) of the Act, which specifically provides that: (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: ... (x) antagonism with a supervisor if the claimant is not primarily responsible for the antagonism ...

[39] The case law informs us that in these cases of conflicts, they are situations occurring independently from the claimant's will or participation and beyond their control (*Smith*, A-875-96). Thereby, the Tribunal must determine, above all else, whether there was a conflict between the parties and whether this situation was the fault of the superior, Mr. M. K., and not that of the Appellant.

[40] The Tribunal determines that a conflict between the Appellant and her supervisor, Mr. M. K., did exist and that the cause of it was not attributable to the Appellant.

[41] The Appellant gave testimony that was logical, coherent and compatible with all her previous statements in the docket. Where there were any inconsistencies in the documents, they were explained in her testimony. There is no doubt in the Tribunal's mind that the Appellant's testimony is credible.

[42] In detailed, credible and emotion-laden testimony, the Appellant describes having been overwhelmed during the events that she experienced at work with Mr. M. K. She testified that Mr. M. K.'s belittling attitude, his actions punctuated by violence and the relentlessness in her regard wore her down excessively. She also confirmed discussing with her immediate supervisor, Mr. G. P., about the situation, but Mr. G. P. did not want to get involved in the matter. Not having the support of her immediate supervisor, the Appellant also conveyed her worries directly to Mr. M. K., but to no avail. The Appellant also talked to Mr. M. K.'s daughter, Ms. G. K. According to the undisputed evidence, Ms. G. K. rather used the situation to apprise the Appellant of her own complaints about her father's (M. K.'s) attitude.

[43] The Tribunal notes that none of the events recounted by the Appellant has been disputed or contradicted by the employer. In fact, the employer stated that the Appellant was unsatisfied with certain measures taken unbeknownst to her, such as the new policy of punching hours, and the employer had to add a single sentence to the effect that a personality conflict existed between the owner, Mr. M. K., and the Appellant. No details on the nature of this personality conflict has been provided by the employer. It is noteworthy in this docket that the guarantor for

the employer was Ms. G. K. She is not only M. K.'s daughter, but she is also a person to whom the Appellant attributes her conflicting reports, such as in the exhibit (GD3-14) where the Appellant writes the following: "The person responsible for my leaving is Mr. M. K. and G. K., who is his assistant (his daughter) who works for X Solution."

[44] The Tribunal notices that, in declaring a disqualification for voluntary leaving, the Commission has attributed little credence to the difficult and antagonistic working relations described by the Appellant, and it seems to have favoured the employer's version that the Appellant quit her job for reasons other than conflicts that existed between herself and Mr. M. K. However, the Commission claimed to have no doubt about the existence of conflicts between the Appellant and the owner, Mr. M. K., but that the Appellant has, by her own statement, mentioned that it was not on several occasions that she experienced conflicts with the employer, such as appears in Exhibit GD3-28.

[45] The Tribunal agrees with the Commission that it is undeniable, according to the evidence presented by the Appellant, that there were conflicts between the Appellant and her superior. However, what Exhibit GD3-28 reveals is the fact that Mr. M. K. did not yell all the time to get his point across. The Tribunal finds that the fact that Mr. M. K. did not yell all the time does not mean that conflicting relationships did not persist. On the contrary—the Appellant described that, during her work stint, she was subject to baseless criticisms, belittling remarks and threats, and that Mr. M. K. constantly spoke to her while pointing his finger at her. The situation had become intolerable to the point that the Appellant stated that she "made sure to go to the bathroom when he (Mr. M. K.) was not around so that I wasn't asked any questions."

[46] According to the Appellant, the straw that broke the camel's back was the last incident, which had taken place a few days before she left, where Mr. M. K. is described by the Appellant as having been "enraged and threatening me; he was aggressive, he yelled and pointed his finger at me that I understood nothing." Yet, for his part, the employer has provided very few details on the final incident, which led to the Appellant's voluntary leaving. Ms. G. K. simply said the Appellant had left without giving a reason and that she had left only a voicemail message with her immediate supervisor, G. P. For his part, Mr. G. P.

simply stated that the Appellant had told him that there had been a discussion between her and Mr. M. K., which she had not appreciated and that she was thinking about quitting her job. This was on what the Commission relied to determine that the facts in the docket do not show that the Appellant's situation was unbearable to the point that quitting her job was the only reasonable alternative.

[47] The Tribunal finds that the evidence in the docket shows the existence of a conflict between the Appellant and her superior. The situation was likely beyond the Appellant's control. (*Smith*, A-875-96)

[48] Despite the fact that the conflicts with her superior were not attributable to her, the Act obliges the Appellant not to "deliberately cause" the risk of unemployment to occur. (*Tanguay* A-1458-)

[49] The Tribunal must apply the test of whether the Appellant had a reasonable alternative to leaving her employment when she did. In this case, the Tribunal finds that the Appellant's decision to leave the employment she had must be considered as the only reasonable alternative in her situation.

[50] According to the Commission, the Appellant did not have just cause in leaving her job, since she did not show that she had exhausted all the reasonable alternatives before quitting her job. Having regard to all the circumstances, the Commission maintains that a reasonable alternative would have been to try to talk to the superior in question and/or another superior in order to find a solution. The Tribunal therefore finds that the Commission would have preferred that the Appellant convey her complaints precisely to the very person who was the basis for all her problems, that is to say, the company owner, Mr. M. K.

[51] The undisputed evidence shows that the Appellant not only discussed the situation with her immediate supervisor Mr. G. P., who did not want to get involved, but that she also discussed it directly with Mr. M. K., but he did not change his behaviour. The Tribunal thereby finds that, contrary to the Commission's claims, the measures taken by the Appellant show that she did precisely what the Commission would have preferred that she do in the situation in which she had found herself.

[52] The Tribunal also agrees with the Commission that a reasonable alternative would have been for the Appellant to search for another job before quitting her job. The Tribunal is convinced that the Appellant was hoping that the situation would improve with time and that she was on the lookout for job offers. The Tribunal is convinced that, before leaving her job, the Appellant searched for work at other locations to avoid finding herself in an unemployment situation, but that her searches were unsuccessful.

[53] The Commission agrees that the conflicting situations must not denigrate into constant or irresolvable conflicts so that if each person makes a reasonable effort to accommodate differences and find a common ground. The Tribunal finds that this opinion constitutes a generality and cannot share it, because each case is unique and, in the Appellant's case, she had reached her tolerance threshold in making the decision to voluntarily leave her job. The Tribunal thereby agrees with the following statements in another ruling rendered in a similar situation:

Each case is different. Whether a work situation becomes intolerable to the point of harming the health of the person experiencing that situation depends most often on that person's level of tolerance, their state of health, their equilibrium, their ability to meet the objectives set and, it must be stated, the ability of the other party to manage a situation before it escalates. *T. D. v. Canada Employment Insurance Commission*, 2015 SSTGDEI 150

[54] The Tribunal finds credibility in the Appellant's testimony in the way she was treated at work and it is evident that, despite her repeated attempts to rectify the situation, these complaints did not amount to much. When an individual's working conditions are as unbearable for that individual as the Appellant's working conditions were for her, the only reasonable alternative is to quit the job in question, and that was the only reasonable conclusion that Appellant could reach.

CONCLUSION

[55] The Tribunal finds that the Appellant had to quit her job because there was a conflict between herself and her superior, the cause of which was not attributable to the Appellant. The Appellant tried to speak openly with her employer in order to find a solution, but to no avail. She made the decision to quit her job after having made attempts to find herself another job, but she had to leave her position before the job searches could turn up anything. The Tribunal finds that the Appellant has proven that she had no other reasonable alternative but to quit her job. She therefore had the just cause required by the Act for voluntarily leaving her employment.

[56] The appeal is allowed.

Bernadette Syverin,
Member, General Division – Employment Insurance Section

ANNEX

THE LAW

Employment Insurance Act

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.

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.