Citation: *DS v Canada Employment Insurance Commission*, 2022 SST 249

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant:	D. S.
Respondent:	Canada Employment Insurance Commission

Decision under appeal:	Canada Employment Insurance Commission reconsideration decision (443301) dated December 14, 2021 (issued by Service Canada)

Tribunal member:	Teresa M. Day
Type of hearing:	Videoconference
Hearing date:	January 25, 2022 and February 7, 2022
Hearing participant:	Appellant
Decision date:	February 11, 2022
File number:	GE-21-2561

Decision

[1] The appeal is allowed.

[2] The Appellant has proven she had no reasonable alternative but to leave her employment at X on September 20, 2021.

[3] This means she is ***not*** disqualified from receiving employment insurance (EI) benefits for voluntarily leaving her job without just cause.

Overview

[4] The Appellant applied for regular EI benefits. On her application, she said that she quit her job at X (the school) because of health issues that were caused by her working conditions. The Commission investigated the reason for her separation from employment, and decided that she quit her job on September 20, 2021 without just cause. The Commission imposed a disqualification on her claim for voluntarily leaving her employment without just cause. This meant she could not receive EI benefits.

[5] The Appellant asked the Commission to reconsider its decision. She said that the school's Administrator was changing her duties without notice, making unfounded allegations against her, and creating a toxic work environment that negatively affected her health. The Commission spoke with the Administrator, who denied the Appellant's allegations and said the Appellant simply walked off the job without giving any reasons. The Administrator later reached out to the Appellant by text, but received no reply. A Record of Employment (ROE) was issued as "Quit" on September 29, 2021.

[6] The Commission maintained the disqualification, and the Appellant appealed to the Social Security Tribunal (Tribunal).

[7] I must decide whether the Appellant has proven she had no reasonable alternative to leaving her job when he did.

[8] The Appellant says she quit because of abusive behaviour by the Administrator that was a danger to her health and made working conditions so toxic that she had no reasonable alternative but to leave her job.

[9] The Commission says the Appellant could have tried to resolve the issues with the Administrator and preserved her employment by responding to the Administrator's text. They also say she could have consulted her doctor about a medical leave of absence for her stress and objectively assess her health condition before deciding to quit.

[10] I agree with the Appellant. I also find that the Appellant exhausted all reasonable alternatives prior to quitting her job on September 20, 2021. Therefore, she is ***not*** disqualified from receipt of EI benefits.

[11] These are the reasons for my decision.

Preliminary Matter

[12] The hearing started on January 25, 2022, but was adjourned at the Appellant's request because she was still assembling evidence and submitting documents to the Tribunal. She also had a witness who would be testifying about the Administrator's abusive behaviour and the toxic workplace at the school, but the witness had not been provided with the videoconference link to participate in the hearing.

[13] An adjournment request was granted and the hearing continued on February 7, 2022.

[14] The Appellant submitted documents right up to February 6, 2022. Not all of the documents were uploaded and available to me by the time the hearing started on February 7, 2022. I was only able to view and consider up to GD11. The GD11 document was shared with the Commission on February 7, 2022, and they confirmed they had no additional representations[1].

[1] The GD11 was shared with the Commission shortly before the hearing commenced. The Commission filed its notice of no additional representations while the hearing was in progress.

[15] The Appellant said there were 2 other documents that she filed the night before the hearing. These were not uploaded to her file in time for the hearing. I told the Appellant that I would not be admitting or considering the documents that might still be in process by the Tribunal's registry service because they were not filed in time to be shared with the Commission. The Appellant said she understood and still wanted to proceed with the hearing.

Issue

[16] Is the Appellant disqualified from receiving EI benefits because she voluntarily left her job without just cause?

[17] To answer this, I must first address the Appellant's voluntary leaving. Then I have to decide whether she had just cause for leaving.

Analysis

Did the Appellant voluntarily leave her job?

[18] According to the Appellant's ROE, she was employed as a bookkeeper at X until September 20, 2021, at which time she quit.

[19] The parties agree that the Appellant quit (in other words, voluntarily left the job). I see no evidence to contradict this.

[20] The Appellant initiated the severance of the employment relationship when she walked off the job on September 20, 2021 and did not return to work, at a time when the employer still had work for her. I therefore find that she voluntarily left her job after her last day of work on September 20, 2021.

Did the Appellant have just cause for voluntarily leaving?

[21] The parties do not agree that the Appellant had just cause for voluntarily leaving her job when she did.

[22] The law says you are disqualified from receiving EI benefits if you left your job voluntarily and didn't have just cause for doing so[2].

[23] Having a good reason for leaving a job isn't enough to prove just cause.

[24] The law explains what it means by "just cause." The law says that you have just cause to leave if you had no reasonable alternative to quitting your job when you did. It also says that you have to consider all of the circumstances[3].

[25] It is up to the Appellant to prove that she had just cause[4].

[26] She has to prove this on a balance of probabilities. This means that she has to show it is more likely than not that her only reasonable option was to leave her employment on September 20, 2021.

[27] When I decide whether she had just cause, I have to look at all of the circumstances that existed at the time she quit.

[28] The Appellant says she had just cause for leaving her job because the Administrator's abusive behaviour made the workplace so toxic that it became intolerable, and because the stress she was experiencing as a result of the Administrator's conduct was a danger to her health.

[29] I will consider each of these reasons in turn.

Issue 1: Did the Administrator's abusive behaviour render the workplace so toxic that the Appellant had no reasonable alternative but to quit when she did?

[30] The Appellant has conflated two different grounds under this reason: the Administrator's abusive behaviour towards her, and the toxic conditions in the

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[2] Section 30 of the *Employment Insurance Act* (EI Act).
[3] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the EI Act.
[4] See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

workplace that were created by the Administrator's abusive behavior. I will consider them both.

[31] The Appellant alleges that the school's Administrator engaged in abusive behaviour ***towards her***. The law says that a claimant who experiences sexual or other harassment has just cause for leaving if they had no reasonable alternative but to quit[5].

[32] The Appellant also alleges that the Administrator's abusive behavior ***made the workplace so toxic*** that she had no reasonable alternative but to quit. The courts have said that unsatisfactory working conditions will only be just cause for leaving employment if they are so manifestly intolerable that the claimant had no reasonable alternative but to leave[6]. However, there is a high obligation on a claimant to seek solutions to intolerable conditions before leaving[7].

EVIDENCE AT THE HEARING

[33] The Appellant arranged for a former co-worker to testify about the Administrator's behaviour and its effect on the workplace. She also filed additional documentary evidence to support the information she previously provided to the Commission, as well as her own, detailed testimony.

[34] I will start with the testimony of the Appellant's witness, as the witness provided important background information about the school and the Administrator's behaviour, both before and after the Appellant was hired.

a) TESTIMONY BY THE WITNESS, E.L.

[35] The Appellant's witness, E. L., testified as follows:

<u>E. L.'s employment at the school</u>

[5] Paragraph 29(c)(i) of the EI Act.
[6] See *CUBs 16704, 12767, 11890, 17143, 17108,* and *20434*.
[7] See *R.C. v. C.E.I.C.*, 2016 SSTADEI 160, and *Green v. Canada (A.G.)*, 2020 FCA 102.

- E.L. worked as a math teacher at the school for 25 years, before quitting in December 2017.

- The Appellant started working as the school's bookkeeper in 2014[8].

Background on the school

- The school was originally associated with the X, an Indigenous community at X, and served kids from the Mohawk reserve.

- It had small classrooms. There was a collaborative approach to both teaching and managing the school. Everyone focused on meeting the particular needs of these unique children. It was a very special place, and she loved teaching there, up until "A" arrived.

- When the original Administrator passed away in 2014, the current Administrator, "A", took over.

- A didn't get along with the X and eventually severed that relationship[9].

The workplace under A

- A changed the collaborative environment into an "autocratic system", so that every single thing was under her sole authority.

- A took away the staff room and told the teachers they could not congregate anymore, even in the classrooms. She installed closed-circuit cameras around the school and continuously watched the feed. She even monitored teachers' Facebook pages and confronted them if they posted about the school.

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[8] Both the Appellant and E. L. testified that the Appellant started working at the school in 2014 and referred to her as working there for 7 years before quitting. However, I note that the ROE gives the Appellant's first day of work as January 2, 2017, and this is the date she used on her application for EI benefits. I am satisfied that this may have been because the organization of the school changed after the Appellant was hired (see footnote 10 below), and a new entity was created.

[9] E .L. said the school is now part of a foundation that A created and controls by way of a Board of Directors consisting of her and members of her family.

- In A's first year as Administrator (2014), 4 of the 9 teachers on staff quit because of A and the drastic changes she made to the school. Like E. L., these 4 teachers were long-standing employees, and had no intention of leaving prior to A's arrival.

- This was the start of what became an annual turnover of staff – something that was unheard of before A's arrival.

Abusive behaviour by A

- A was a bully in her dealings with staff. She regularly belittled staff in front of co-workers and parents. She pitted staff against each other, and she deliberately caused dissention in the workplace. She manipulated staff and took advantage of them.

- This behaviour by A was abusive, and caused the workplace to become toxic. There was no employee morale and stress levels were always very high.

- A even tried to "discredit" E. L. because her math program was well-known and attracted students to the school. She bad-mouthed E. L. around the school and in the community. She also refused to give E. L. the educational supports allocated to the math program, and directed them instead to the language arts class.

Resolution of issues with A

- There is no real Board of Directors for the school[10].

- There is no one that A is accountable to.

- At first, when E. L. had a problem she would try to talk to A. But it quickly became apparent that A wouldn't listen and wasn't interested in finding a

[10] See footnote 10 above.

solution. A would just issue a “direct order”, but it never solved the problem “because she never listened”.

- Sometimes A even made things worse. One time, E. L. had an issue with another teacher. A’s solution was to bring them together, but instead of clearing the air and trying to resolve the issue, A pitted them against each other. Afterwards, A told E. L., “It was fun watching you two go at it.”

- The workplace was toxic because things like this were a regular occurrence.

- There were weekly staff meetings at the school. But whenever E. L. spoke up about a problem or a concern she had, A would say, “It’s not on the agenda” and refused to discuss it. When E. L. tried to put her issue on the agenda for the next meeting, her request was denied. A would say, “We’re not discussing this.”

- A’s approach was to “refuse things outright and that was the end of it”.

- This kept happening to E. L. over and over again. A would “never budge”, so there was no way to resolve any issues with her.

- E. L. finally wrote A a long letter with all of her issues and concerns about how she was being treated and what she needed for her program. A never acknowledged it or responded to it.

- By December 2017, E. L.’s doctor was concerned about the effect that the stress from A’s abusive behaviour and the toxic environment at work was having on her health. E. L.’s doctor advised her to quit because of what the job was doing to her.

- E. L. decided to quit and gave 2 week’s notice, which ran over the Christmas holiday break). She left her job at the school at the end of December 2017. She still feels badly about leaving her students like this, in the middle of the school year and without saying goodbye. But she had “no recourse” other than leaving.

- By the time she quit, E. L. was aware that the Appellant was also “struggling” in her work with A.

- The Appellant was very good at her job, prompt and efficient, but E. L. could see how stressed the Appellant was because of A’s behaviour and the way A treated people. They tried to support each other, but eventually E. L. had “no choice” but to quit.

[36] I give significant weight to the testimony of E. L. and accept it as credible in its entirety.

[37] Her lengthy work history at the school, along with her direct personal experiences with the Adminstrator make her well qualified to testify about the Administrator’s behaviour and the working conditions that resulted from it, both before and after the Appellant started working at the school.

[38] I acknowledge that E. L. and the Appellant are friends. However, I am satisfied that their relationship was not the basis for E. L.’s testimony. I could see from E. L.’s emotional demeanour during her testimony that her experiences with the Administrator were genuine and still troubling to her. E. L’s statements were also given voluntarily and spontaneously, and without having heard any of the Appellant’s testimony[11].

[39] The information E. L. provided is highly relevant to the issues before me. Her testimony also corroborated the Appellant’s evidence and supported her submission that she had no reasonable alternative but to leave her job on September 20, 2021.

[40] I will now move on to the Appellant’s testimony.

b) TESTIMONY BY THE APPELLANT

[41] The Appellant testified as follows:

[11] The witness testified at the very start of the hearing on February 7, 2022. She then disconnected from the Zoom videoconference, before the Appellant gave her testimony and made her submissions at the hearing.

Background

- She is a member of the Mohawks of X.
- She has been working on the Mohawk reserve for the past 20 years.
- She started working at the school in 2014.
- She loved working at the school, loved seeing the kids every day, and loved helping her community this way.
- She didn't want to leave her job at the school, but after 7 years of stress and problems dealing with A, she couldn't take the abuse any longer.
- She recognized that her working relationship with A was as an abusive relationship because it was similar in many ways to the relationship she had as a child growing up with an alcoholic father. She was always on edge and couldn't do anything right; and the constant stress took a toll on her health.
- "Abuse is abuse".
- She has provided a sampling of text messages she received from A at GD9-2 to GD9-10. These show the abusive language A used with the Appellant, along with the demands she made on the Appellant. They also show how A complained about school staff, parents and even students behind their backs, and tried to drag the Appellant into it. They also show how A was preoccupied by "conspiracy theories" and thought people were after her job.

Summer of 2021

- The Appellant worked from home between March and June 2021, when schools were closed due to the pandemic. But the "tyranny" by A "was the same".
- The situation for employees in the administrative office at the school was highly toxic because of the bullying and abusive behaviour by A.

> ***Note***: the Appellant wrote a detailed description of A's bullying and abusive behaviour in the Occupational Health and Safety Complaint she filed against A under the *Canada Labour Code* on October 24, 2021 (at GD8-2 to GD8-3). She repeated these details in her testimony. For the sake of brevity, I will not repeat them here. However, I accept the complaint and the Appellant's testimony about it, as evidence on this issue.

- When the Appellant returned to work in person at the end of June 2021, it only got worse.

- She had a skin rash "explode" on her arm. She had experienced this condition before. It is triggered by extremely high levels of stress.

- She often gets this rash during "the annual audits"[12] because there is a lot of work involved and A always loads her up with extra tasks and demands at the same time.

- For example, A ordered a truckload of furniture for the school to be delivered in July, just before the audit report was due. Ordering furniture to be delivered in July is problematic because since there were no employees at the school in the summer to unload the furniture or set it up. The only people actually at the school at that time were the Appellant and the office administrator. When the truck delivered the furniture, A said it was up to them to move the furniture inside, because if they left it outside until the rest of the staff came back in September, it would be ruined. The Appellant lost 2 days of audit preparations because she had to unload furniture. This was unreasonable, unnecessary, and extremely stressful given that the audit deadline was looming.

- Another example relates to the Board of Directors for the school.

[12] The Appellant said that the school's annual audit report is "due to the government" by July 29th every year.

- The Board of Directors is a board "in name only". It consists of 3 people: A, A's husband, and A's brother-in-law[13]. The brother-in-law is the ostensibly the "president of the board", but A controls everything.

- The board never had any meetings. But A wanted to make it look like they did for the audit report. A told the Appellant to create Minutes based on the bookkeeping records, and then A just said that people were at the meetings. But that wasn't true, because there were never any board meetings held.

- Throughout June and July 2021, her rash was a serious problem. But she knew from experience that waiting for a referral to a dermatologist would take too long, so she treated the rash with cortisone cream that she had leftover from a prior episode.

- She also experienced terrible tension headaches everyday, and "wasn't sleeping". Sunday nights were particularly bad, as she felt a terrible sense of dread about what A's mood would be on Monday.

- But she didn't want to go to the hospital for any of these health problems because she finished radiation treatment for cancer in February 2019 and her immune system was still considered compromised. She "didn't want to take a chance with Covid".

- On 2 separate occasions, once in July and again in August 2021, she went to A's brother-in-law's home and asked him if he could speak to A "to ease up" on her because "things were really bad at the school".

- He said NO. He told her that he was getting complaints about A's behaviour from other people too, including the cleaners who worked at the school, but he was unwilling to speak to A or get involved.

[13] The Appellant ran a corporate search for the foundation that now runs the school, and submitted the list of Directors at GD11-7.

- In August 2021, she complained to Indigenous Services Canada (ISC) about A's behaviour as Administrator of the school[14]. The ISC representative told her that the school's last "evaluation and review" was in 2017, and that the next one wasn't going to be done until 2022.

- By the time school started up again in September 2021, she had reached out to a board member (twice) and ISC to try to resolve her workplace issues with A – but had gotten nowhere.

- She didn't know where else to turn.

The final incident: September 17 – 20, 2021

- As bookkeeper, the Appellant regularly communicated with ISC on a variety of topics, including preparation of reports, the annual audit and other initiatives. She always used her ***work*** e-mail for these communications.

- On September 17, 2021, the office administrator, C., sent an e-mail to ISC advising them that the Appellant's ***work*** e-mail was "no longer valid" and that, effective immediately, all school communications were to be sent to a general info e-mail address, to A's attention (at GD6-3).

- This e-mail effectively told ISC that they were not allowed to deal with the Appellant anymore, without giving a reason why.

- The Appellant was not copied on this e-mail to ISC or told about it at the time.

- The other "half" of the Appellant's job was purchasing supplies for the teachers and the school.

- Also on September 17, 2021, C. sent a memo sent to staff saying that, effective immediately, all supply requisitions would be processed by C. (at GD6-4).

[14] The Appellant said that the school is funded by ISC. Part of her job as bookkeeper was to prepare the annual audit and other monthly reports for ISC.

- The Appellant was not given a copy of this memo. But 3 different teachers sent it to her on that day, so she could see that fully "half" of her job was being given over to C.

- The e-mail to ISC and the memo to staff were both sent out on Friday, September 17, 2021. The Appellant does not work on Fridays, so she was not at the school.

- When the Appellant arrived at work on Monday, September 20, 2021, A accused her of telling ISC to send ***work***-related e-mails to her ***personal*** e-mail address. The Appellant responded by saying that the only person who sends work-related e-mails to her personal e-mail address was A.

- The Appellant produced the e-mail she sent to ISC on June 1, 2021 (at GD6-5), in which she advised ISC of the new work e-mail addresses for herself, A and "Administration", and said, "The admin one is good to forward all emails with a CC to either A or myself." (at GD6-5).

- Then, the Appellant found out that her ***work*** e-mail address had been "canceled" with ICS. She was shocked and upset. A tried to say it was a mistake by C. But the Appellant didn't believe that. C. had never dealt with ICS and wouldn't have done so except at A's direction[15].

- The Appellant knew A was doing all of this because A was embarassed about missing a recent finance meeting with ICS. A was looking for someone to blame and lashing out at the Appellant.

- And that was when she decided she couldn't stay in this abusive relationship any longer, and she walked out.

[15] Later the same day, C. told the Appellant that A "forced" her to write the e-mail to ISC and the staff memo.

- A sent a text to the Appellant about 90 minutes after the Appellant left the building (at GD6-2). In it, A again tried to blame C. The Appellant knew this was just more of A's lies and pitting staff against each other, so she ignored it.

- Her "stress" rash "disappeared" within 2 weeks of quitting, and has not returned.

[42] I give greatest weight to the Appellant's testimony at the hearing. This is because the particulars about what was going on at work were provided through active adjudication during the hearing, and they correspond – albeit in greater detail, to what she told the Commission both before and after the disqualification was imposed on her claim[16].

[43] When the hearing opened on January 25, 2022, the Appellant had difficulty with particulars. She was making the same kinds of vague statements she initially gave to the Commission, such as: "The Administrator didn't do her job", and "She wouldn't listen". I acknowledge that the information she gave the Commission was sometimes overly broad and unhelpful. But by engaging in active adjudication at the hearing and being asked about the alternatives to quitting raised in the Commission's representations on the appeal (in GD4), the Appellant was able to describe the efforts she made to resolve the issues at work and explain why she could no longer endure the abusive behaviour of the Administrator and the toxic environment at the school.

[44] By contrast, I give less weight to the evidence the Commission obtained from the employer. The statements by A. in the first interview[17] are directly contradicted by the documentary evidence the Appellant provided in GD6. The statements by A. in the reconsideration interview[18] support the Appellant's testimony that it was A. and not C. who was behind the e-mail and staff memo that went out on September 17, 2021. A's

[16] I asked the Appellant about this, and she said the Commission only seemed concerned about what happened during "that last week of work" and not the "7 years of abuse". But the last week was "the straw that broke the camel's back."
[17] See Supplementary Record of Claim at GD3-25.
[18] See Supplementary Record of Claim at GD3-34.

statements in this interview are also directly contradicted by the documentary evidence the Appellant provided in GD6. What A. *told the Commission* the e-mail to ISC said is actually quite different from what the e-mail *actually said*.

[45] I find that the Appellant experienced harassment within the meaning of paragraph 29(c)(i) of the *Employment Insurance Act* (EI Act).

[46] The term "harassment" is not defined in the EI Act. But the concept of harassment in the form of workplace bullying is usually seen as acts or verbal comments that could mentally hurt, embarrass or isolate a person in the workplace. It often involves repeated incidents or a pattern of behavior that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. A review of the jurisprudence where the Umpires have found just cause for harassment under paragraph 29(c)(i) of the EI Act contemplates numerous such incidents and/or a pattern of such behavior over a period of time[19].

[47] The Tribunal's Appeal Division has considered the issue of workplace harassment and set out a series of "key principles"[20] to guide me when determining whether a claimant has been harassed. The guiding principles are:

a) harassers can act alone or with others, and do not have to be in supervisory or managerial positions;

b) harassment can take many forms, including actions, conduct comments, intimidation and threats;

c) sometimes, a single incident will be enough to constitute harassment; and

d) there is a focus on the alleged harasser, and whether that person knew or should reasonably have known that their behaviour would cause offence,

[19] *CUBs 55611, 56604,* and *57338*.
[20] *ND v. CEIC*, 2019 SST 1262, at paragraph 34.

> embarrassment, humiliation, or other psychological or physical injury to the other person.

[48] The circumstances described by the Appellant fall squarely within the jurisprudence for harassment for purposes of paragraph 29(c)(i) of the EI Act.

[49] The Appellant experienced verbal comments and actions that were intended to humiliate her and isolate her in the workplace. The individual involved was her direct supervisor. There was an on-going pattern of abusive behaviour throughout almost the entire period of her 7-year employment, culminating in a final – typical – incident. And the harasser should reasonably have known their behaviour was offensive and causing psychological stress to the Appellant.

[50] I find that the Appellant experienced harassment within the meaning of paragraph 29(c)(i) of the EI Act because she was subject to an on-going pattern of insulting and humiliating acts by her supervisor, A., who knew or should reasonably have known that this conduct would cause offence, embarrassment and other psychological injury to the Appellant. This is especially apparent given that A. tried to hide behind C. as the perpetrator of the e-mail to ISC and the staff memo that were the basis for the final incident.

[51] I further find that the harassment experienced by the Appellant was just cause for leaving the job when she did. Given that the abusive behaviour was coming from the Appellant's direct supervisor, she could only go above A.'s head with her concerns. And that's exactly what she did. The Appellant raised her concerns with upper management (via the President of the Board of Directors) and with the government agency that funds and oversees the school (ISC) prior to quitting, but her efforts were unsuccessful. Neither entity was willing to assist her or get involved. It is not reasonable to expect the Appellant to continue to endure this level of bullying and escalating hostility when it was going to be another 6-12 months before ISC even looked at the problem.

[52] The Commission submitted that the Appellant could have tried to preserve her employment by responding to A.'s last text. I do not agree. The text was just another example of the abusive, self-serving, baiting behaviour A. had engaged in for years. It is not reasonable to expect the Appellant to go back for more of such behaviour after leaving for this very reason.

[53] The Appellant exhausted all of her reasonable alternatives and, therefore, had just cause for leaving when she did. This means she is not disqualified from receiving EI benefits.

[54] Having come to this conclusion, it is not necessary for me to make any other findings. But I will complete the analysis of the other circumstances raised by the Appellant.

[55] I also find that the Appellant has met the onus on her to prove that her work environment had become so manifestly intolerable that she had no reasonable alternative but to quit her job on September 20, 2021.

[56] The testimony by E. L. and the Appellant was particularly persuasive on this point. Both described being exploited, manipulated, and pitted against co-workers by A. Both described steps taken by A. that changed the workplace from a collaborative space to a hostile environment. I have no hesitation in finding that such abusive behaviour created a workplace that could legitimately be described as "toxic".

[57] The fact that E.L. quit because of the stress of working in this toxic workplace – on the advice of her doctor, is also highly compelling. The Appellant stuck it out for nearly 4 years after E. L. quit, but eventually – and unsurprisingly, got to the same point. I accept the Appellant's testimony that she could not remain in her job any longer because the workplace environment had become genuinely intolerable for her.

[58] For the reasons set out in paragraph 51 above, I further find that the Appellant exhausted all of her reasonable alternatives and, therefore, had just cause for leaving when she did. This means she is not disqualified from receiving EI benefits.

Issue 2: Did the Appellant's health concerns mean she had no reasonable alternative but to quit when she did?

[59] The Appellant says that the stress created by the Administrator's abusive behaviour and the toxic workplace was a danger to her health. The law says that a claimant who experiences working conditions that constitute a danger to health or safety has just cause for leaving if they had no reasonable alternative but to quit[21] .

[60] Where the detrimental effect on a claimant's health is being proffered as just cause, a claimant must usually: (a) provide medical evidence (*CUB 11045*); (b) attempt to resolve the problem with the employer (*Hernandez 2007 FCA 320*, and *CUB 21817*); and (c) attempt to find other work prior to leaving (*Murugaiah* 2008 FCA 10, and *CUBs* 18965, 27787).

[61] The Appellant testified about the toll the stress caused by A.'s behaviour was taking on her health. E. L. testified about it as well. Unlike E .L., the Appellant did not consult her doctor prior to quitting, so she does not have a doctor's note. But the Appellant promised to tell the truth in her testimony, answered all of my questions thoroughly, and provided details about her health issues, going back to her cancer in 2019 and prior episodes with the stress-induced rash. I accept her testimony as credible. I also accept that she had valid reasons for not going to a hospital at the time.

[62] I don't believe a doctor's note would add anything to my analysis. I already believe the Claimant, and she has satisfied the other 2 conditions in paragraph 60 above: I have already found that she attempted to resolve the problem with the employer before quitting (without success, so this alternative was exhausted by that time); and I have already found that expecting her to remain in the job and continue to endure harassment and a toxic workplace was not reasonable (so insisting she stay in

[21] Paragraph 29(c)(iv) of the EI Act.

the job while trying to find other work prior to quitting cannot be considered a reasonable alternative).

[63] The Commission submitted that a reasonable alternative would have been to take a medical leave of absence to resolve her stress problems and objectively assess her health condition before deciding to resign. I do not agree. There is no evidence whatsoever that a medical leave of absence would have solved the problem. At best, it would have been some temporary relief for the Appellant. There is no evidence whatsoever that A. was sympathetic to the Appellant's concerns or would have changed her abusive behaviour in a way that would have made a difference for the Appellant. Therefore, for the same reasons set out under Issue 1 above, I find it is not reasonable to expect the Appellant to take a medical leave of absence or continue in the employment in any way.

[64] The Appellant has proven that quitting her job on September 20, 2021 was the only reasonable thing left for her to do. This means she has proven she had just cause for leaving her job.

Conclusion

[65] The Appellant has proven she had no reasonable alternative but to quit her job at X on September 20, 2021.

[66] This means she had just cause for voluntarily leaving her employment and, accordingly, is ***not*** disqualified from receipt of EI benefits for doing so.

[67] The appeal is allowed.

Teresa M. Day

Member, General Division – Employment Insurance Section