

Question of Law: U.I. benefits

Have you had a bad day at the office? Are you just about ready to walk in tomorrow and quit?

Before you say, "I quit," you should be aware that if you are planning on income from Unemployment Insurance Benefits, you may face a severe penalty for quitting your job. In December, the Federal Government announced changes to the Unemployment Insurance Act which will affect a person who is fired from work because of misconduct or a person who quits a job without just cause.

Under the proposed changes, if a person loses his employment by reason of his or her own misconduct or voluntarily leaves employment without just cause, he will be disqualified from receiving any Unemployment Insurance payments at all.

That is a drastic change from the present law. Under the present legislation, a person applying for benefits is disqualified for a period of anywhere from 7 to 12 weeks if he loses employment without just cause. Most disqualifications seen at our office have ranged from 10 to 12 weeks. When benefits do start, payments are only 50 percent rather than 60 percent of insurable earnings.

In dollars and cents, that means that under the law, now you receive no benefits for the two-week waiting period, and none for a further period of up to 12 weeks, and then the payments remain lower for the rest of the claim period. The penalties may carry forward to any time that you re-apply for benefits for up to six years.

There are two factors to be considered with respect to voluntarily leaving employment. The first question is whether the employee took the initiative in terminating the employment, rather than the employer.

Next, there must be just cause for leaving. Under the Unemployment Insurance Act now, "just cause" exists where, having regard to all the circumstances, you have no reasonable alternative to immediately leaving employment. The Act sets out various factors which must be considered in determining whether there was just cause including: sexual or other harassment; an obligation to accompany a spouse or dependent child

to another residence; discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act; working conditions that constitute a danger to health and safety. Although the obligation to care for a child is also listed as a factor, staying home to care for one's children or family members is considered a personal decision which shows that a claimant is not available for work.

The disqualification section of the Act has been interpreted strictly. For example, it will not be just cause if you leave a job to return to school or retire. If you quit voluntarily or leave because of personal conflict with the employer or other employees.

If you are fired for misconduct, you will be disqualified as well. Misconduct is not defined in the Act. It is a question of law and fact. The misconduct must involve the person's own behavior or an act or omission for which the person is personally responsible. Also, the employment must have been lost because of the behavior.

Before you go in to work and quit or do anything that may get you fired, be very certain that you can prove to the Commission and to a Board of Referees that the circumstances will establish just cause and that there was no misconduct.

With the proposed changes to the law, there will be dollars saved through disqualified claims. However, the impact on the budgets of the Regional Government and the provincial government will be significant. It is to our local welfare offices where those denied Unemployment Insurance, who have little assets or savings, must go in order to survive until new employment is found.

The town lawyers and the community legal workers at the Halton Hills Legal Clinic provide a range of legal services to financially eligible people throughout Halton in the legal areas of tenants' rights, rent control, welfare, family benefits, unemployment insurance, workers' compensation and Canada pension plan disability pensions. For more information about these matters call the clinic at 877-5256.

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92-2-495

ERIN 89 ACRES \$589,000

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92-2-509

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