

# Saint John mom says she lost her job after losing child care <sup>[1]</sup>

Province says legislative changes protect workers' jobs during state of emergency

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## AVAILABILITY

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## EXCERPTS

When the province ordered daycares to close on March 16, Kelsey Collette told her employer that she wouldn't be coming to work.

"I said to him, 'As soon as this is over, I will be back to work as soon as I can. If you need me to work from home just give me a call. I have a laptop and a printer and scanner all at home, and I'm here to help in any way I can.'"

She didn't hear anything further about working remotely, applied for the Canada Emergency Response Benefit, or CERB, and went on with life at home with her two boys, five-year-old Grayson and four-year-old Layton.

She was comforted by the message from political leaders that no one would lose their jobs because of COVID-19.

"It was obviously a false sense of security," she said.

On Thursday, when she heard Premier Blaine Higgs talk about a plan to begin opening up some businesses, she contacted her employer to discuss a return to work.

She was told he hired someone to replace her and that there wasn't a job for her.

With the province's recovery plan now in place, she wonders how many workers will soon find out there's no job to return to.

Those who lost their jobs because of the COVID-19 pandemic now have legislative support to ensure their jobs are waiting for them.

The legislature reconvened on April 17 to pass three amendments to the Employment Standards Act, including one to protect the jobs of people forced to take leaves of absence because of COVID-19.

In introducing the bill, Trevor Holder, the minister of post-secondary education, training and labour, specifically mentioned child care.

"One of the impacts of the COVID-19 pandemic is that many New Brunswickers are unable to work because they are in quarantine or self-isolation, or they have children who are home because of school or daycare closure, or they are taking care of family members who are sick or in quarantine themselves," he said.

"As a result, many of these workers fear losing their jobs on a permanent basis."

Bill 40 states that "an employer shall not suspend, lay off, penalize, dismiss or otherwise terminate the employment of an employee or impose disciplinary measures or discriminate against an employee" and goes on to describe several scenarios where the provisions would apply, including a state of emergency.

Employees are obligated to "look into other forms of child care that are safe and observing the physical distancing requirements," explained Erika Jutras, a communications official with the Department of Post-Secondary Education, Training and Labour.

"This could include a spouse, a live-in family member etc. One would also look at the age of the children. Are they old enough to legally be left alone?"

If no child-care options are available, the employer has a duty to accommodate "to the point of undue hardship," she said.

"This could include working from home (if possible) or holding her position while she is on a leave without pay and receiving employment insurance," said Jutras.

"If an employer eliminates someone's job during the pandemic, the employee could file a complaint with the employment standards branch and they would investigate. If violations are found, the employer would be required to pay the amount owing to the employee."

Jutras said it doesn't matter that daycares closed before the state of emergency was ordered.

"We are not limited to using the date that the state of emergency was declared," said Jutras.

She said Holder will have more details on the topic "in the coming days."

#### **Job still gone**

Collette said she's pleased to know she has a case against her former employer, "but at the end of the day, I still lost my job."

Now she'll have to fight for compensation she's due under the Employment Standards Act.

She said she wished the situation had been clearer at the beginning of the pandemic "because restrictions are going to be lifted and a lot of other people may discover themselves in the same position."

#### **For those wanting to stay at home**

At his daily briefing on Thursday, Higgs addressed the issue of employees who don't want to go back to work.

He said employers can't just keep jobs open for people who aren't ready to work.

"The employer doesn't have an obligation to hold a position because someone chooses not to return back to work because they've got a federal program that helps them stay home."

If an employer can provide a workplace and conditions that meet Public Health's standards, then employees have to return to work if they want to keep their jobs, he said.

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