



Workplace Harassment – Employer BEWARE!



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Award of \$950,000 for mental distress and loss of wages to a former RCMP Officer who was subjected to harassment in the work place.

Nancy Sulz enjoyed her career as a police officer with the RCMP until Staff Sgt. Smith was appointed as her new detachment commander. For over 2 years Sulz was subjected to mental, sexual and verbal harassment by Smith, who frequently made derogatory comments towards her and even told Sulz's colleagues not to ride with her, resulting in a breakdown of trust and respect between Sulz and her fellow officers. The ongoing harassment took a severe toll on Sulz' physical and mental health as she was unable to sleep or eat, became 20 pounds underweight and was constantly on the verge of tears. Even though the divisional representative told Smith to stop his behaviour, the reprimand only made him more angry towards Sulz. On her doctor's advice, Sulz went on sick leave for a short period of time. After returning to work, she found that the toxic work environment she had left had only become stronger as she found herself completely ostracized by Smith, who refused to interact with her, and her relationships with her colleagues had deteriorated beyond repair. As a result, Sulz applied for a transfer to the highway patrol and was devastated when Smith informed her by letter that there were no open positions and then forcefully criticized her policing abilities. The emotional blow of Smith's criticism was amplified by the fact that the letter was copied to the officer in charge of the highway patrol that Sulz wished to be transferred to and became part of her personnel file.

After a number of other psychologically damaging incidents, Sulz, who had been diagnosed as having a major depressive disorder, was advised by her psychiatrist to take sick leave. Smith called the psychiatrist, demanding details of Sulz's medical condition, suggesting that Sulz had manipulated the psychiatrist and made allegations that she might have a drug dependency problem.

Although the RCMP investigation found evidence of harassment by Smith, no disciplinary action could be taken by the RCMP as Smith had already retired. Sulz then commenced legal

proceedings, eventually being awarded \$950,000.00 by the B.C. Supreme Court for negligent infliction of mental suffering and lost wages, due to the devastating effect of the harassment and her resulting inability to deal with any form of regular employment.

This case has significant implications on the overall obligations of employers towards their employees. In rendering their verdict, the Court has sent a clear message that employers are responsible for ensuring that the workplace is free of harassment, including bullying and abusive behaviour. Even if an employee is vulnerable to depression or other mental afflictions, this does not absolve an employer from their duty to provide a harassment-free environment for their employees. It now appears that in assessing whether an employee has been wrongfully dismissed, the Courts will carefully examine the behaviour and daily interactions in the workplace prior to the dismissal or resignation. This includes interactions between employees and their supervisors as well as between co-workers.

As a result, employers are now even more obligated to ensure that standards of behaviour in the workplace are set and maintained. This can be accomplished through the use of office policies which outline procedures to be followed and what should be done in the event that an employee is harassed. It is important that the employer immediately conduct investigations when an incident of harassment is reported, regardless of whether the complaint appears well-founded on the surface or not. Failure to take such incidents seriously or conduct proper investigations will likely result in high costs for employers, who may be found financially responsible for the impact of workplace harassment on an employee's overall mental and physical health, as well as their lost earnings and potential earnings. **MB**

This is the fourth article in a series of Employment Law Issues contributed by Minken & Associates Professional Corporation – Employment Lawyers.

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