

HILL ADVISORY NEWS

“Working with the human side of business”



Is Sexual Harassment a Health/Safety Hazard ??



..... The following is an actual “harassment” case

- * Carla worked at a local hospital. She complained that her supervisor touched her on four separate occasions without her consent and behaved in a manner which made her fearful in his presence. She advised hospital management that she feared that her supervisor’s conduct would escalate and that he would forcibly confine or sexually assault her.
- * As a result of this harassment, she complained of physical symptoms including headaches, insomnia and general malaise. The hospital responded by sending her supervisor a letter directing him not to intentionally touch her again.
- * Six months after the complaint, she was dismissed. Believing this was a reprisal for her sexual harassment complaint, Carla filed a complaint with the Ontario Labour Relations Board (OLRB) alleging that her dismissal constituted a reprisal for complaining about a safety issue at work.
- * The hospital denied the charge and asserted that in any event, sexual harassment was not an issue covered under the Occupational Health and Safety Act (OHSA) and the OLRB had no jurisdiction to hear the complaint. The hospital claimed that the issue should be dealt with under the Human Rights Code.

Does Carla’s sexual harassment complaint constitute a health and safety issue under the OHSA ??

- * The OLRB stated that although Carla did not have the OHSA in mind when she complained about her supervisor’s harassment - she clearly considered the sexual harassment to be a health hazard. She therefore framed her complaint to management in terms of her concern for her personal safety.
- * The OLRB noted:

“if sexual harassment is recognized as a potential cause of injury it is difficult to resist the conclusion that it falls within the common meaning of the word ‘h a z a r d’ in the OHSA.”

(The OLRB ruled there was no evidence to support that Carla’s dismissal was a reprisal for her complaint and that it was motivated solely by restructuring and government cutbacks.)

The Province of Saskatchewan currently deals with harassment issues/complaints under the Occupational Health and Safety Act. Will other provinces follow suit? What repercussions can we expect?

..... “Comments anyone?”

We enjoyed our return trip to Halifax and our visit with Nova Scotia Community College last summer. As usual, Claudine Lowry and Michelle Creelman - you did a wonderful job of coordinating the Harassment Resolution Workshop!

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Special thanks also go out to Anna Gaston at Correctional Services Canada in Mirimichi, New Brunswick and Toni Villiers from the City of Saskatoon for organizing the Harassment Awareness & Prevention training. We had a great time and really enjoyed meeting everyone!

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It was a pleasure meeting Jerome Mauws and his staff at the Union of Manitoba Municipalities in Portage la Prairie, Manitoba last July/August. Thank you for the warm welcome and cooperation we received while conducting the job audits!

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1998 Public Workshop Schedule

“Harassment Investigation” (3 days)
“Harassment Resolution” (2 days)

Oct 19 - 23 Moncton NB
(workshop full - waiting list only)

Nov 23 - 27 Whitehorse NT

1999 Public Workshop Schedule - T.B.A.

**EARLY
BIRD
SPECIALS**

Phone/Fax
Janet in Calgary at:
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Q. What is the role of a lawyer or union representative at a harassment interview? How do you deal with them if they are obstructive?

- * Lawyers working in the harassment field usually don't cause any difficulties with the interview process since they understand what is involved. If you have a lawyer who doesn't understand, stop at the beginning and spend some time going through the process before you begin the interview.
- * A lawyer/union representative is there to represent their client. Allow them to do so in the manner they feel is appropriate. If you end up in disagreements - you've lost the game before it's begun.
- * There are several techniques that you can use if you are having difficulties:
 - 1) explain "direct evidence"
 - 2) ask the lawyer/representative to allow the witness to answer the questions
 - 3) listen to the representative/lawyer - but don't write the answer down



4) go back and repeat the original question to the witness.

- * If the representative has not caught on at that point - suggest that the two of you step out into the hallway and have a chat. *Whatever you do - do not argue with the lawyer/representative in front of their client - or suggest how they should represent their client!*

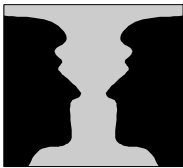
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Q. What if a witness talks about suicide or depression during a harassment interview?

- * Stop the interview process! Check with the witness to ensure the witness has supports (i.e. EAP, counsellor, etc.). Also, check to ensure the witness is able to proceed with the interview. *Whatever you do - don't ignore the comment!*

Q. Should you interview the Complainant and all pertinent witnesses first - and then interview the Respondent and pertinent witnesses?

- * No! A harassment investigation *should not only be fair and unbiased - it should be perceived to be fair and unbiased!* There is a "cloud" hanging over everyone associated with a harassment complaint. Everyone is stressed. A harassment complaint is not a criminal investigation!
- * If you interview the Complainant and all the Complainant's witnesses first - the Respondent will feel the case has been determined before anyone has even spoken to him/her.
- * You may have to interview witnesses a second time once you've heard from the Respondent. This will increase the backlash in the workplace and the stress levels of all the witnesses. Is that really necessary?



"Workplace Conflict" - Constructive or Destructive ??

- * Conflict is an inevitable result of social interaction. It is especially common in organizations because of the social interaction between people with different goals, values and backgrounds. Recent structural, economic and philosophical changes in the workplace have escalated the likelihood and level of conflict.
- * Organizations and teams immersed in conflict tend to have lower morale levels, lower productivity, higher turnover and more employee burn-out. *However - distinctions must be made between positive and negative aspects of conflict in the workplace.*
- * Teams, organizations and individuals need conflict interaction to learn and grow. *If constructively managed - conflict may lead to newer ideas and increased organizational effectiveness.* Conflict can result in higher productivity and satisfaction for everyone in the workplace!

- * *If left unchecked however, conflict may become unduly disruptive! We will never eliminate conflict - but it is essential to try to prevent disruptive/destructive conflict from escalating into a major long term war in the workplace.*
- * Effective conflict management is most likely when the source of conflict is understood. Some differences can be reduced - while others can be respected without being resolved. *Problems can be confronted most effectively if you:*

- 1) address the problem directly
- 2) choose the time and place to maximize privacy; and focus/maintain calm mood
- 3) express shared goals; what is going well; and positive traits of the other person
- 4) focus on facts (with specifics)
- 5) avoid being highly emotional; and don't express subjective judgments
- 6) suggest possible solutions to the issue you are confronting

7) focus on what you personally can change - rather than trying to change someone else

- * *Conflict in the workplace is inevitable! It can be constructive or destructive - depending on how the disagreements are handled and whether conflicts are necessary and important in getting things done!!*

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On the Move



Even though *Cam Hill & Associates* are constantly on the move - you can always get in touch with us!!

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