

PRESENTS You & The Law

Law doesn't tolerate bullying bosses

Bosses who harass, bully or verbally abuse their employees can be on the hook for big bucks.

Take the ground-breaking decision of the BC Court of Appeal in the "million-dollar Mountie" case. The court upheld a damage award of just under \$1 million for Nancy S., an RCMP officer who was the target of angry outbursts and cutting comments by her supervisor. Being mistreated over an extended period of time led to a deep depression which effectively ended her career.

She had become part of a close-knit RCMP community of some 20 members and received excellent evaluations from her first two commanding officers. Her troubles began a few months after staff Sergeant S. became the officer in charge of her detachment. Over the next two years, she was subjected to harassing conduct by the staff Sergeant, which included "angry outbursts" and "intemperate, and at times, unreasonable behaviour." He made negative comments about her pregnancy leave and her abilities, put her down in front of co-workers, and used harsh language with her.

After two years of this, Nancy had become quite ill. She lost 20 pounds, was unable to sleep or eat, and had become clinically depressed. Her doctor advised her to go on sick leave, and she eventually accepted a medical discharge.

The court decided the staff Sergeant's harassing conduct created "the troubled work environment that [she] experienced." The harassment she suffered was "the proximate cause of her depression, which in turn, ended her career in the RCMP." She was left unemployable in the sense that she could only work part-time doing uncomplicated tasks in a stress-free environment.

The court concluded that the tort or civil wrong of negligent infliction of mental suffering or harm had been established. The provincial government (responsible for her boss' employment in BC) was liable for his conduct and payment of

the damages.

Since that case, there's been a flurry of media reports on sexual and harassment claims by other female members of the RCMP, some of which are on their way to court.

But what gets lost in the discussion is that it's not about the RCMP – it's about the fact that harassment (sexual or otherwise) and bullying isn't tolerated in the workplace, regardless who the employer is.

The law imposes a duty on employers to provide a workplace environment free of harassment and bullying. Depending on the specific situation, failure to do so may allow affected employees to seek redress before human rights tribunals (e.g., a fast food worker got \$36,000 after eight months of harassment from co-workers), claim workers' compensation, or seek compensation in court.

Bottom line? Bosses who are overly aggressive or pursue hostile management styles risk liability if an employee is hurt and their ability to earn a living suffers as a result.

Bullying behaviour by bosses can also trigger claims of "constructive dismissal." This refers to situations where intolerable working conditions or a demotion amount to legal justification for the employee to quit and get compensation for wrongful dismissal. In several cases, employees have received damages after quitting because of severe workplace bullying.

Employers must take care to control verbal and psychological abuse in the workplace – or face the consequences. If you face serious bullying or harassment at work and are unsure of your rights, consider consulting your lawyer.

Written by Janice Mucalov with contribution by Milne Selkirk. The column provides information only and must not be relied on for legal advice. Please contact Lawrence Coulter of MILNE SELKIRK for legal advice concerning your particular case.

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