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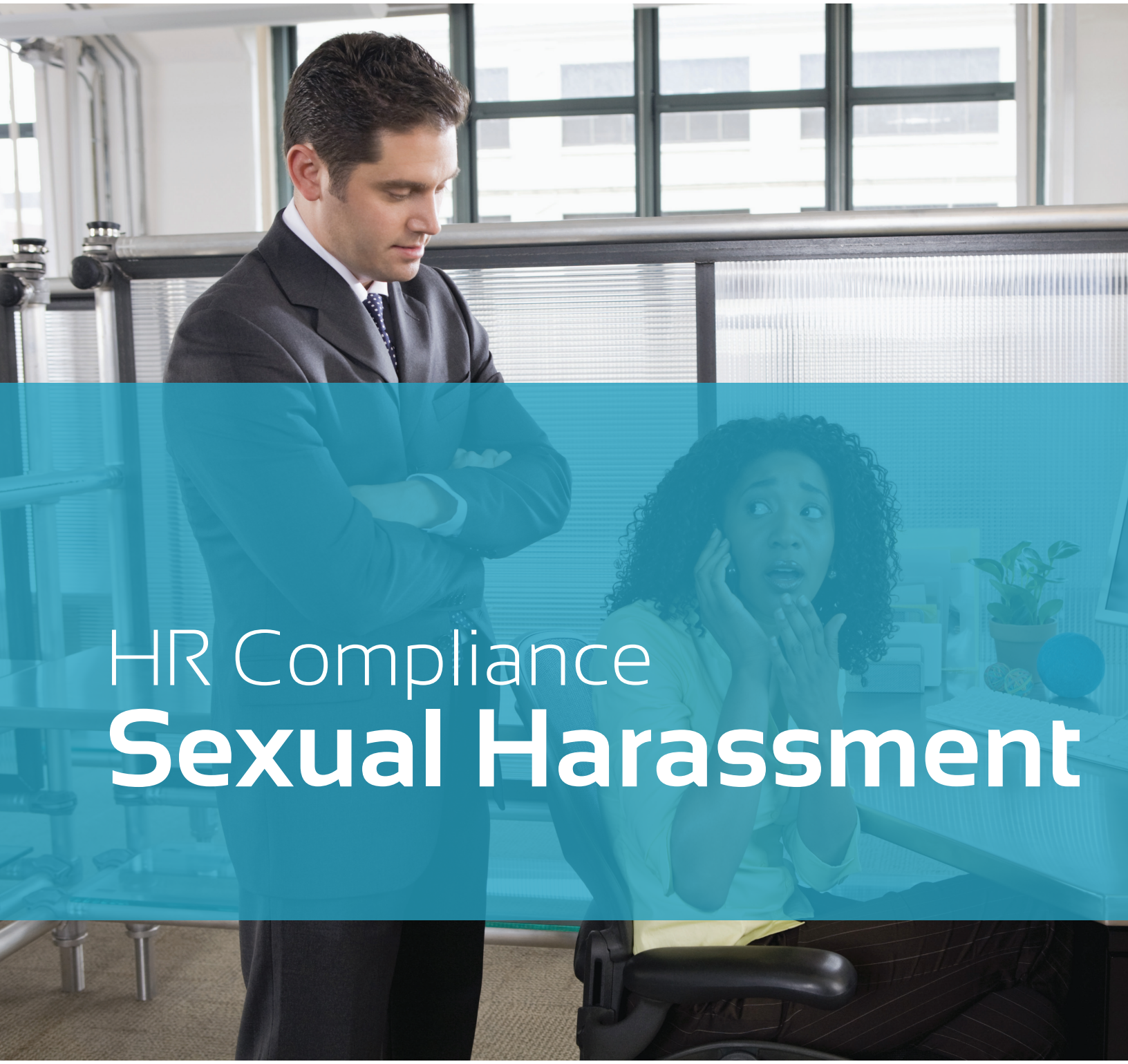


HR Compliance
Sexual Harassment

HRInsider

Threat Assessment

6 Tips for Reducing Risk of Workplace Violence & Harassment

Workplace violence and harassment take their toll on both the victims and their employers. Every jurisdiction in Canada either directly or implicitly requires employers to take steps to protect workers from these hazards. And it's critical that you address both harassment and violence. Harassment occurs more frequently than acts of violence. In addition, harassment often precedes violence and serves as an early warning that violence can result if workplace issues aren't addressed. But you may not know the exact steps to take to deal effectively with these hazards.

A study from the Conference Board of Canada identifies six actions that companies can take to significantly reduce the human, financial and reputational costs of workplace violence and harassment. This study, Managing the Risks of Workplace Violence and Harassment, is based on research conducted by the Conference Board's Council on Emergency Management and Council of Industrial Relations Executives.

Conference Board Study

The study notes that the risk of workplace violence and harassment comes from individuals both within and outside the organization, including:

- **Co-workers:** Fellow or former employees
- **Clients:** Those who receive products or services from the organization & Individuals who have or had a relationship with a worker, such as a current or former spouse, relative, friend or acquaintance
- **Criminals:** Individuals who target and enter workplace to commit a crime, such as robbery

The study says that employers can comply with OHS requirements and significantly reduce the risks of workplace violence and harassment by taking six key actions:

1. Conduct periodic risk assessments.

2. Heed early warning signs. Management and employees at all levels of an organization must be able to spot the signs of potentially violent individuals and work situations.

3. Make targeted use of professional assistance service options, such as employee assistance programs. These specialists can identify and manage workplace violence and harassment, provide expert consultation services that identify risks and suggest elimination or mitigation strategies

4. Have appropriate policies and resources to respond when needed. Workplace violence and harassment policies should include clear expectations and consequences for individual conduct. Other options include regulating physical access to workplaces (such as "layered levels" of access in health-care settings) and redesigning jobs and schedules to ensure that individuals don't work alone.

5. Review prevention and response plans continually.

6. Provide effective crisis leadership and response in the event of violence or harassment. Key actions include:

- Acknowledging the incident
- Communicating with both compassion and competence
- Outlining the steps that are being taken to bring the workplace back to normal and make it more resilient..

Case Studies

Is It Considered Sexual Harassment If The Derogatory Comments Are Not Made In Person

Sexual harassment, as defined by the Supreme Court of Canada, is "unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victims of the harassment." In order to succeed in a claim of sexual harassment, the complainant has to prove that the sexual harassment was "unwelcome."

CASE 1:

Robert Gillam held an important job as a supervisor working on pipeline projects in Western Canada, for Waschuk Pipe Line Construction, a male-dominated workplace. Three females worked at the job site, and one of them happened to be the daughter of the company's owner.

Gillam felt that the three female employees spent too much time socializing with the male employees and that they were responsible for work not getting done. As a result, in conversations with other

employees, he consistently referred to them in very derogatory terms, blaming them for a number of his problems. When the women complained that the name calling amounted to harassment, Gillam was warned that his job was on the line. Although the issue improved for some time, it did not disappear entirely.

When the company's owner later learned that one of the female employees was considering suing the company, he decided that Gillam had to be fired without severance. Gillam sued, arguing that his conduct was not serious enough to justify his dismissal. At a recent trial, Gillam's case was dismissed. According to the judge, it did not matter that Gillam did not make the derogatory statements directly to the female employees. Since they learned about his statements through others, it poisoned the workplace and qualified as sexual harassment nonetheless.

CASE 2:

The grievor was a crane operator with three years seniority. He complained about a co-worker (a "stocker") on Facebook. Other co-workers who were Facebook friends of the grievor commented. Although the "stocker" was not identified by name, there were physical characteristics referenced that identified her. The commentary on Facebook continued until they included suggestions of a physically aggressive act. The crane operator also made suggestions that a violent and humiliating sex act could be inflicted on the stocker and mentioned a cruel nickname associated with the stocker's personal characteristic.

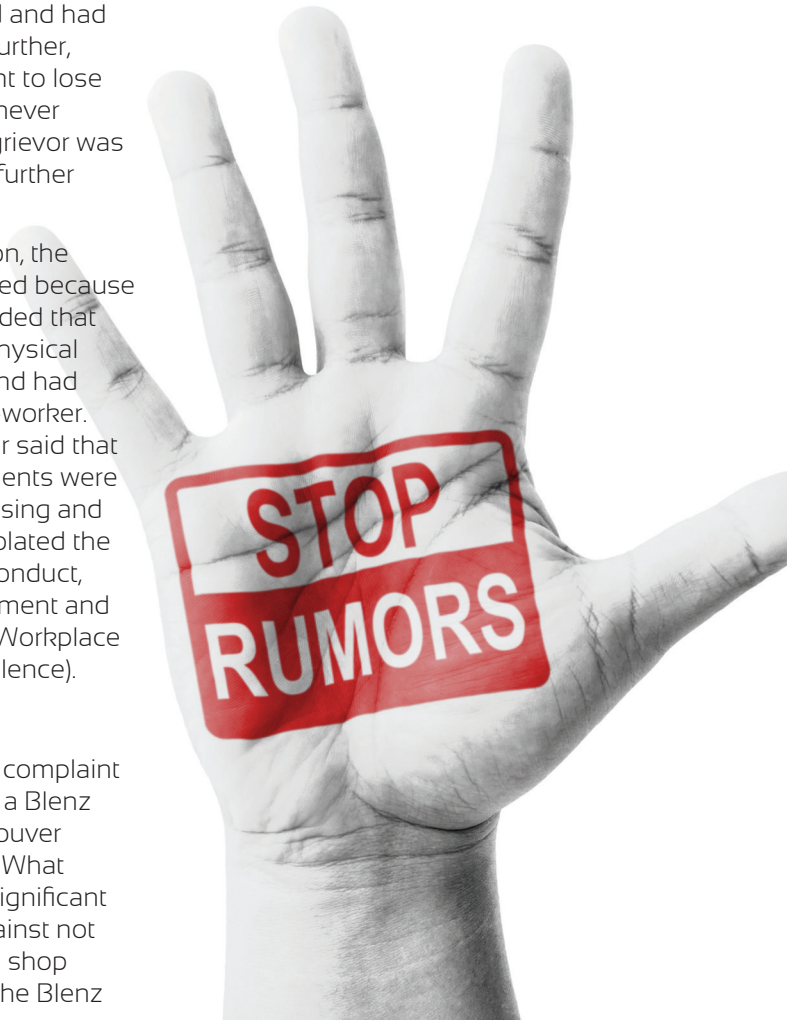
The stocker was told about the Facebook comments by a co-worker and complained to the Industrial Relations Coordinator (IRC) and Industrial Relations Analyst (IRA).

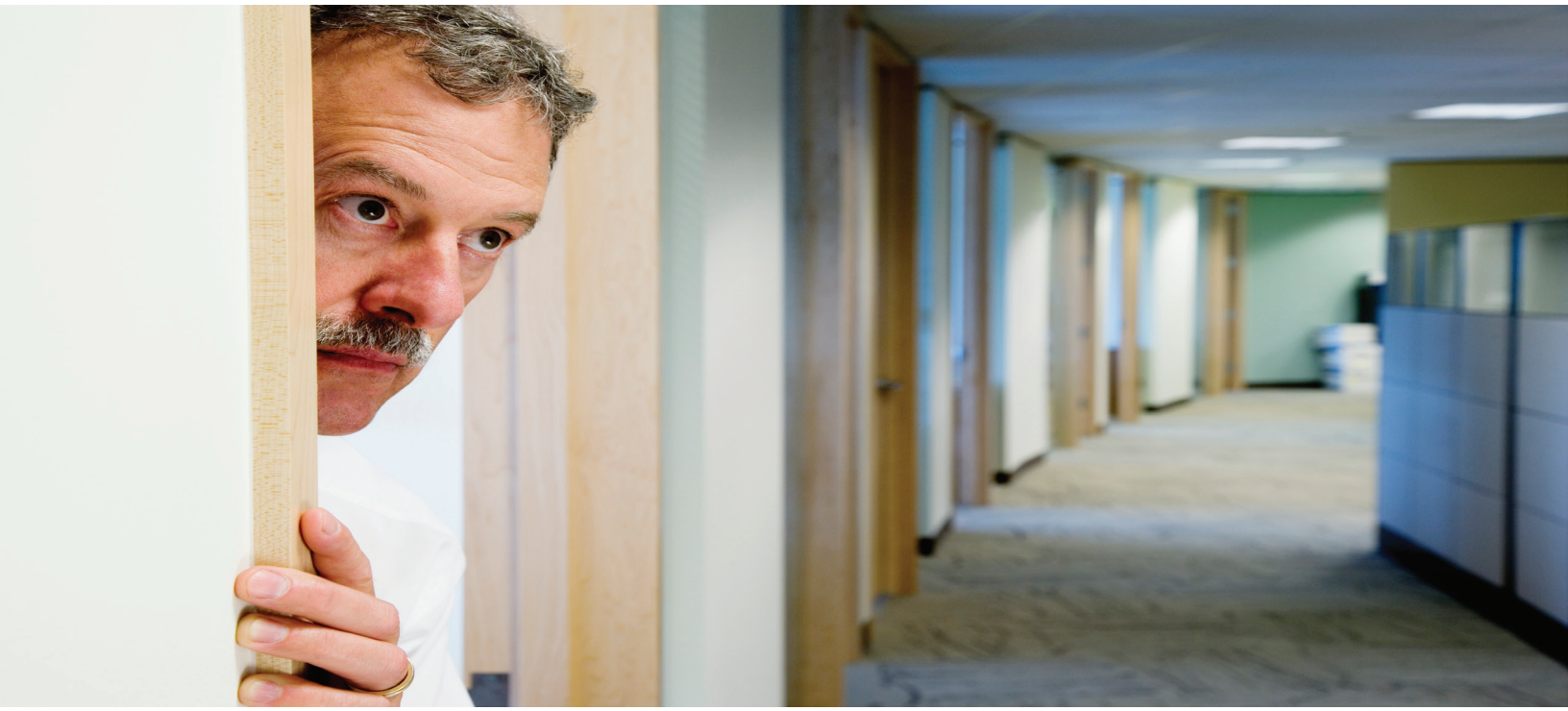
The Facebook postings were public. You did not need to be the grievor's Facebook friend to see the post. After the company advised the union steward that they wanted to meet with the grievor, the posts were taken down. When the grievor met with the IRC and IRA, he apologized and said he was embarrassed and had deleted the posts. Further, he said he didn't want to lose his job and it would never happen again. The grievor was sent home pending further investigation.

After the investigation, the grievor was terminated because the company concluded that the posts involved physical and sexual threats and had embarrassed the co-worker. The termination letter said that the Facebook comments were discriminatory, harassing and inappropriate and violated the company Code of Conduct, the Collective Agreement and Ontario's Bill C-168 (Workplace Harassment and Violence).

CASE 3:

The sex harassment complaint filed by a waitress at a Blenz coffee shop in Vancouver was pretty standard. What makes the case so significant is that she filed it against not just the owner of the shop (the franchisee) but the Blenz franchise itself. Blenz tried to get the case thrown out since it wasn't the waitress's employer. But the BC Human Rights Tribunal refused, noting that the waitress had twice contacted Blenz with her concerns and never got a return call. An employee doesn't have to be employed by the franchise to sue it for sex harassment .





Case Study

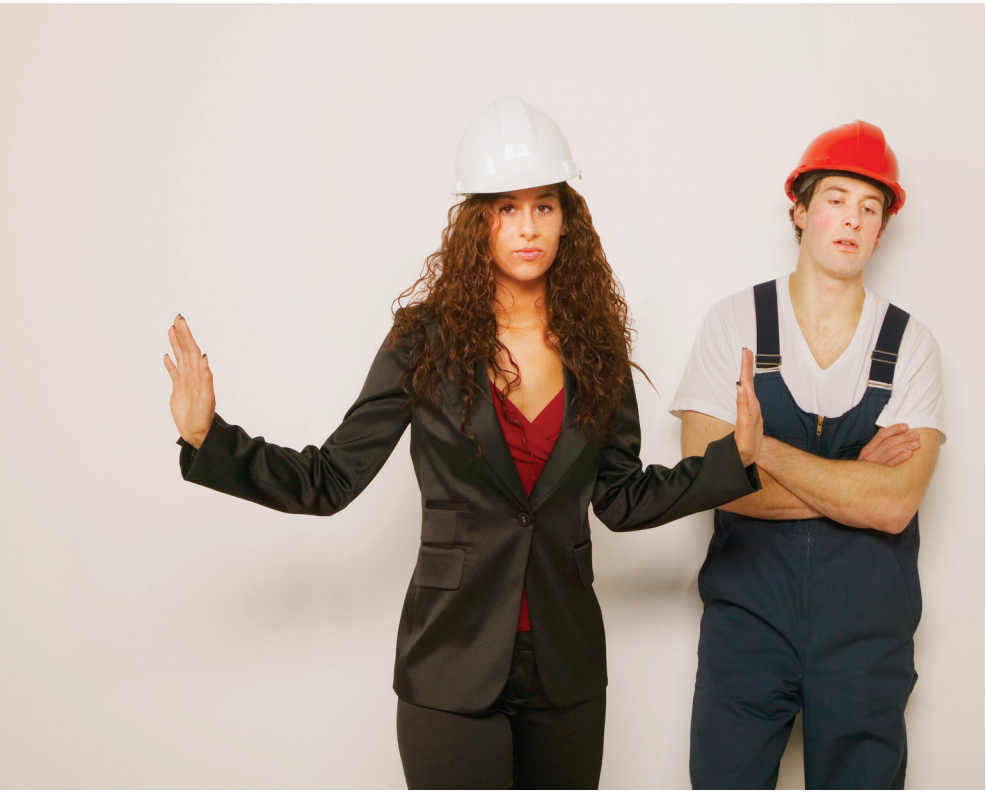
Worker Did Not Object to Harassment Due to Fear of Losing Job

Sexual harassment is a serious matter. But allegations aren't always easy to prove. And sometimes there may be borderline conduct that might be construed as consensual or the worker may not express objections to the conduct right away out of fear of the ramifications. To really avoid liability, employers must be vigilant to identify and prevent any harassing conduct even amongst friendly co-workers. Here's what happened to one employer.

CASE:

What Happened: A sales clerk claimed the store owner continually made sexually suggestive comments to her and continued to do so despite her objections to some of the comments and related conduct. But the clerk had consented to some instances of contact with the owner. For example, the clerk allowed the owner one time to massage her shoulder when she was in pain from an injury. She also allowed him to put a cream on her back that she had been given by a therapist to treat back pain. The owner followed up these consensual encounters, however, with repetitive sexual innuendo. Another time, without explaining why, the owner told her to sit on a mattress. She did so and he gave her a massage. She didn't object at the time but later texted him that the relationship had to remain professional. The owner persisted, however, with his sexual comments. On another subsequent occasion he took business cards he had ordered

for her, grabbed her shirt and stuffed them into her bra. In another incident he put an Easter egg down her shirt. The clerk claimed she didn't object to the conduct more forcefully because she had feared losing her job. Eventually, however, she because stressed by the owner's conduct and suffered panic attacks and left her job. She brought a claim for harassment.



What the Human Rights Adjudication Panel Decided:
The human rights adjudicator found the owner had violated the Human Rights Code and the clerk was entitled to damages.

The Adjudicator's Reasoning:
The human rights adjudicator stated the remarks "were of a type that no reasonable person would believe a woman would welcome." It also noted the owner was over six feet tall and more than 250 pounds and, as her boss, had power to set her hours, grant raises or fire her. She was a single mother in a small town and depended on the job. The adjudicator found that the owner made "repeated sexual solicitations or advances" and touched her without her consent and noted that a worker doesn't have to object to the harassing actions at the time. Instead, the test is whether a reasonable person would understand the conduct as unwelcome. It also found that the times the sales clerk consented to being touched were not circumstances that would cause a reasonable person to believe sexual advances were welcome. The adjudicator thus found the owner violated the human rights code and awarded lost income damages for the time she couldn't work due to the stress from the harassment and damages for injury to dignity and self-respect. It also ordered the owner to attend sexual harassment workshop and directed that the owner's company develop a sexual harassment policy [Emslie v Doholoco Holdings Ltd, [2014] CanLII 71723 (MB HRC), Dec. 3, 2014].

ANALYSIS:

In this case, the sales clerk objected to the owner's conduct on some occasions but did consent to some incidents of physical contact. The clerk said she didn't object more vehemently because she feared she could lose her job. The adjudicator acknowledged an intimidation factor and said the clerk didn't have to object at the time of the conduct. The lesson learned is don't wait until someone objects to conduct as harassing. Make sure your company has a sexual harassment policy, all employees at every level are trained regarding the policy and emphasize that it can still be harassment even if no one expressly objects to the conduct at the time.

Can An Employee Consent To Sexual Harassment At Work?

A recent decision of the British Columbia Human Rights Tribunal (2013 BCHRT 289) dealt with a complaint by Adele Kafer that she had been subjected to sexual harassment in her employment at Sleep Country Canada.

Ms. Kafer said that she was subjected to ongoing sexual harassment. For example, another employee, Arif, said "see you later bitch" to her in the presence of other employees. Arif also told her that he would only be able to sleep with her if he "roofied" her, in reference to a date rape drug. Arif then sent an e-mail from her email address on the company e-mail system referring to her as "gay and stupid and weird" and saying that "I wish I could have Arif he is the all mighty and has the biggest penis."

After the e-mail incident, Ms. Kafer went on sick leave and sought medical treatment for stress arising from the sexual harassment at work. She also filed a human rights complaint against Sleep Country.

In an unusual defence, Sleep Country said that Ms. Kafer had worked in a number of its stores and that all of the stores she worked in had a culture "whereby sexually explicit banter, jokes and innuendo were considered reasonable social interaction between employees and between employees and managers." Sleep Country admitted all of the allegations made by Ms. Kafer, but it said that she had participated in the sexual banter and conduct. Ms. Kafer had talked frequently about the size of penis that would suit her. She talked with another employee about who they wanted to have sex with. She, together with other employees, used sexually explicit swear words at work. Until the final e-mail incident, Ms. Kafer had never complained to Sleep Country about the ongoing sexual banter and jokes in the workplace.

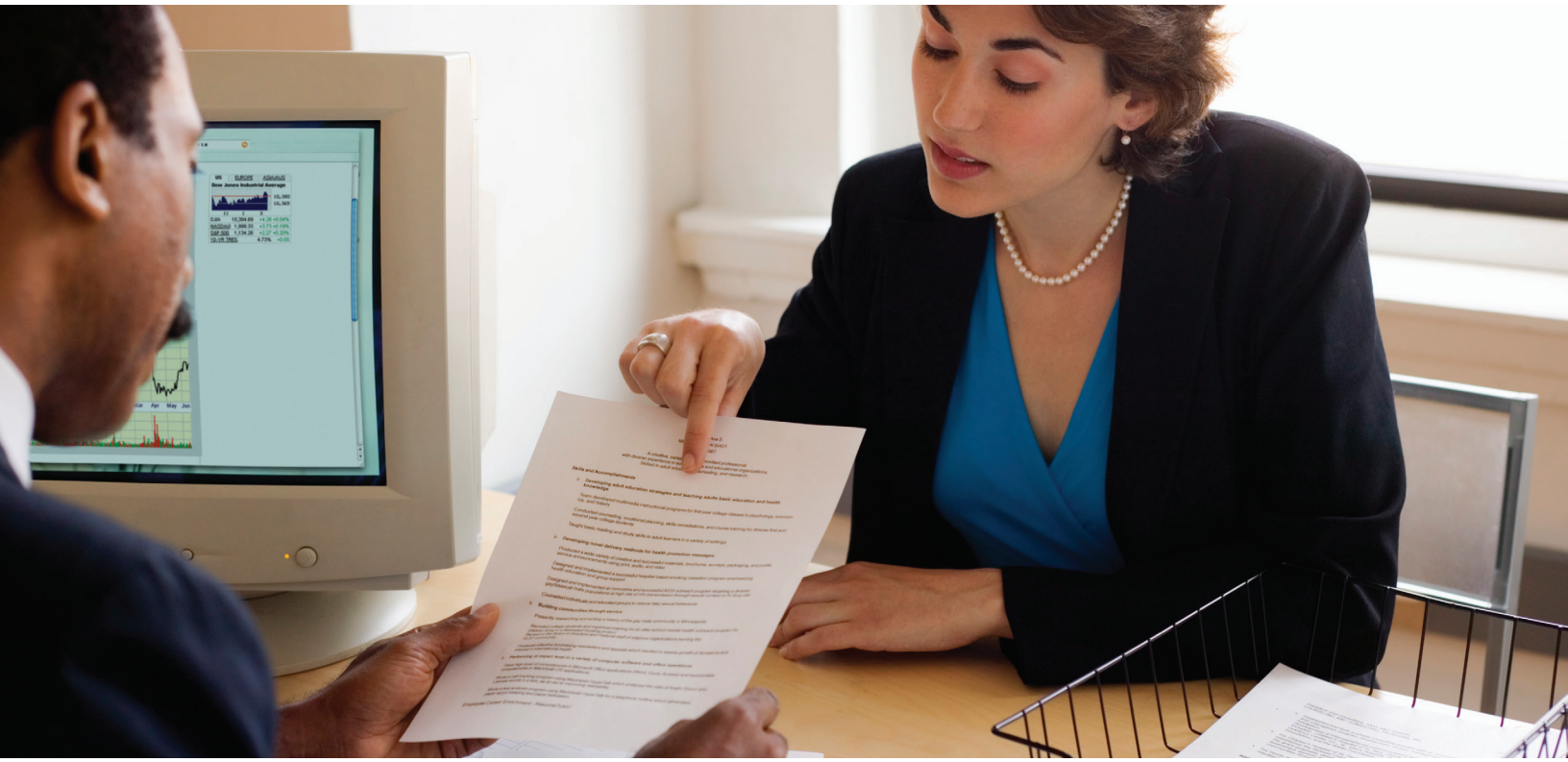
Ms. Kafer said that she did not like the atmosphere in the workplace but that, "I participated to fit in and be liked. I did not want to create waves by not participating."

Sexual harassment, as defined by the Supreme Court of Canada, is "unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victims of the harassment."

In order to succeed in a claim of sexual harassment, the complainant has to prove that the sexual harassment was "unwelcome."

The Human Rights Tribunal dismissed Ms. Kafer's complaint on the basis that "there is no reasonable prospect that Ms. Kafer will succeed in proving that an objective person should have known that she found the matters she complains of unwelcome, given the degree of her participation in the sexualized workplace banter." The tribunal stated that Ms. Kafer could communicate "directly, and through her conduct" that she does not welcome sexual banter in the workplace. If she did so, Sleep Country would be required to provide a work environment free of sexual harassment.

If an employee does not make it clear that he or she objects to sexually explicit jokes, comments, and banter in the workplace, the employee will not be able to successfully bring a complaint for sexual harassment arising out of that work environment.



Protocol

How Should an Employer Respond to a Harassment Complaint?

SITUATION:

A Xerox technician who comes to the office each week swats a printing company employee in the butt with a rolled up blueprint. Distraught and in tears, she immediately tells her supervisor and demands action. The supervisor, believing he can handle the situation himself, talks to the technician, who admits what he did. So the supervisor makes him apologize to the employee. But facing the technician is the last thing she wants. She demands that the incident be reported to Xerox and the technician barred from the workplace. The supervisor refuses to "ruin the man's life over such a stupid mistake." Instead, he suggests that she call the police. The technician keeps coming to the company once a week but stays out of the employee's way. Still, his mere presence makes her very uncomfortable. She sues the company for sexual harassment. The company doesn't have a written harassment policy.

QUESTION

Is the company liable for harassment?

A. Yes, because it didn't adequately respond to the employee's complaint.

B: Yes, because it didn't have a written harassment policy respond-to-a-harassment.

C: No, because the alleged harassment involved just a single incident.

D: No, because the technician was employed by Xerox, not the company.

ANSWER

A. The company is liable for harassment because of its inadequate response to the employee's complaint.

EXPLANATION:

This scenario, which is based on an Ontario Human Rights Tribunal ruling, illustrates some of the pitfalls to avoid when your company responds to harassment complaints.

There was no doubt in anybody's mind—including the technician himself—that swatting the employee in the butt was harassment. But in responding to the employee's complaint, the supervisor made at least four mistakes:

1. Putting the employee and the technician in the same room;

2. Not telling management about the complaint;

3. Refusing to notify the technician's employer of the incident; and

4. Telling the employee to call the police instead of recognizing that the company had a duty to deal with a harassment complaint.

Thus, the Tribunal concluded that the company's response to the employee's complaint was inadequate and ordered it to pay her $5,000 in damages.

WHY WRONG ANSWERS ARE WRONG

B is wrong but tempting. In fact, B would be a correct answer if your company's based in MB, ON or SK. That's because the OHS laws in these jurisdictions require employers to adopt written harassment policies. Written harassment policies aren't specifically required in the rest of Canada—although they're at least a best practice. But although not having a written harassment policy isn't necessarily cause for liability itself in all jurisdictions, it may result in liability because it leaves supervisors and managers to respond to harassment complaints on their own without guidance, which is what happened in this case.

C is wrong because one incident can be enough to constitute harassment if it's egregious enough. Swatting an employee in the butt is the kind of egregious act that rises to this level.

D is wrong because the employer's duty to prevent sexual harassment extends to not only its own employees but also to other people who come into the workplace, including contractors and customers. Although the company didn't have authority to discipline the technician, it could—and should—have reported the incident to Xerox and not allowed him to come back to the office.

Workplace Violence

Not Taking Harassment Complaints Seriously

When an employee complains of harassment on the job, it's easy to dismiss the complaint offhand or conduct a superficial investigation—especially if you don't think there's a basis for the complaint or the employee complaining is a "difficult" employee. But giving such complaints short shrift is a big mistake, even if it's ultimately determined that the complaint was unfounded. That's the lesson an Ontario employer recently learned.

Employer Penalized for Botching Harassment Investigation

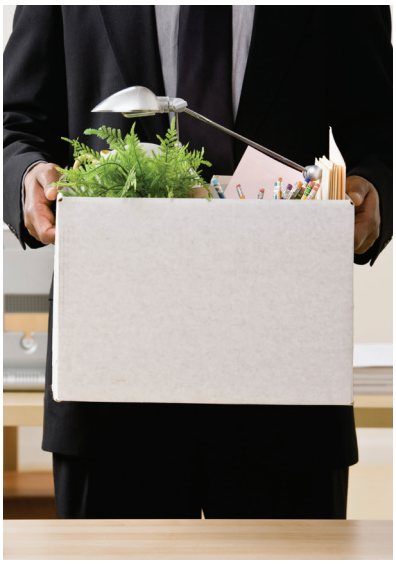
An employee for a furniture company claimed that he was subjected to harassment and discrimination based on his colour, such as being assigned what he considered to be "menial" tasks. He discussed his concerns with his supervisor, the HR manager and the new Director of Sales. But none of them ever got back to him. He was then fired. The employee sued the company for discrimination and harassment based on colour and reprisal for firing him for complaining about this mistreatment.

The Human Rights Tribunal found that the employee hadn't proven that he was the victim of discrimination or harassment. But it also concluded that the company failed to take any steps in response to his complaints. For example, the company didn't investigate

his claims or even conduct a follow-up interview with the employee to clarify the nature of his complaints. Instead, there was "complete inaction" by the company, said the Tribunal. It concluded that the company failed as an organization to act reasonably in addressing the employee's complaints in an adequate and appropriate manner.

The Human Rights Tribunal found that the employee hadn't proven that he was the victim of discrimination or harassment. But it also concluded that the company failed to take any steps in response to his complaints. For example, the company didn't investigate his claims or even conduct a follow-up interview with the employee to clarify the nature of his complaints. Instead, there was "complete inaction" by the company, said the Tribunal. It concluded that the company failed as an organization to act reasonably in addressing the employee's complaints in an adequate and appropriate manner.

The Tribunal also found that the company terminated him at least partly because he raised these issues and exercised his rights under the Human Rights Code, which was an act of reprisal. So the Tribunal ordered the company to pay the employee more than $55,000 in lost wages and $15,000 in damages for injury to his dignity, feelings and self-respect. And because it was clear that the company's managers didn't know how to respond to complaints of this nature, the Tribunal also ordered the company to hire a human rights expert to review and revise its human rights policies and train members of management to ensure future compliance with the human rights laws. And it ordered a now former company executive to take a human rights course prepared by the Ontario Human Rights Commission *[Morgan v. Herman Miller Canada Inc.]*



SOLUTION: Follow Company Procedures for All Complaints harassment-complaints

Morgan is an interesting case because although the Tribunal found that the employee wasn't the victim of discrimination or harassment, it concluded that he was nonetheless harmed by not having his allegations taken seriously. In fact, the only thing the company did in response to his complaints was fire him, which was an illegal reprisal.

Thus, the lesson from this case is that employers should have procedures for handling discrimination, harassment and similar complaints and must ensure that staff follow those procedures for all complaints, regardless of who makes them or how unlikely the claims may appear to be. Supervisors, managers and anyone to whom employees may bring such allegations must be trained on those procedures. They should be instructed to take all complaints seriously, thoroughly investigate them and document their findings. Then if they conclude that the complaints are unfounded and the employee takes legal action, it's unlikely that a court or tribunal will hold the company liable for damages for a faulty investigatory process.

In addition to the things the company should do when an employee makes a complaint, the company ***should not***:

- Wait too long to investigate it;
- Rely on a biased or incompetent investigator;
- Fail to get both sides of the story; Forget to interview third parties who may have witnessed key events or conversations;
- Fail to gather all relevant information before making any conclusions;
- Ask "leading" questions - that is, questions that suggest a correct answer - when interviewing witnesses or the parties involved;
- Interview witnesses in front of each other.

Policy & Procedure

Have A Workplace Harassment Policy? Why It's Not Enough

Harassment policies are a common aspect of workplace administration for most human resource practitioners. However, establishing a harassment policy is only part of what employers should do to address harassment in the workplace. The key to protecting against potentially costly claims for harassment is to implement and follow proper policies and investigation procedures.

On December 16, 2013, an Alberta arbitration board awarded just over $805,000 in damages and lost wages to an employee who was sexually assaulted by a foreman at her place of work, both before and after making an initial complaint to her supervisor: Calgary (City) v CUPE, Local 38, 2013 CanLII 88297.

In November 2010, the employee reported sexual harassment and assault to her supervisor, who was also the foreman's supervisor. The next week, the supervisor went on vacation, leaving the foreman in charge. The assaults continued. Fearing she would not be believed, the employee installed a spy camera in her work station and recorded one of the assaults. The employee approached her supervisor again, who indicated his next step would be to report the assault to corporate security so an investigation could be launched. The supervisor wrote a memo to corporate security indicating that in his view, the pictures were "inconclusive". The foreman was suspended with pay and then placed on paid sick leave. On January 5, 2011, he pleaded guilty to numerous counts of sexual assault.

The employee was then the victim of what appeared to be an incident of retaliation. She was also told to attend a psychiatric evaluation and she was "counseled" by the employer. A grievance was filed on the employee's behalf and she was moved to another work site. In August 2011, the employee went on sick leave and has not returned to work. There was no record that any investigation into the allegations of sexual harassment and sexual assault was ever completed. This resulted in the largest award to date for damages and lost wages for sexual harassment in an arbitration setting.

From Prevention to Investigation: How Employers Can Reduce Risk and Liability

There are several steps you can take to minimize the risks of harassment complaints:

1. Proactively implement appropriate workplace policies that address harassment, bullying, and workplace violence. This is now required by law in British Columbia.

2. Ensure that employees and supervisors are aware of the policies.

3. Follow the policies and review them from time to time for compliance with legal obligations.

4. If you receive a complaint, treat it seriously.

5.. Without prejudging the matter, determine if anything needs to be done to address the situation while the investigation is being undertaken.

6. Commence, document, and complete an unbiased investigation in a timely manner.

7. Take appropriate action based on the results of the investigation.

8. Treat all affected parties with dignity and respect throughout the process.

Employers that have appropriate policies, conduct meaningful investigations, and follow through with reasonable and prompt action will be well placed to avoid the risk of a significant damage award against them.

Sexual Innuendo Can be Treacherous Ground in the Workplace

In Canadian workplaces today, sexual harassment is defined by a thin line. Sexual innuendo that can easily be seen as harmless flirting to one employee can just as easily be seen as an invitation to a lawsuit to another. As sexual harassment is often in the eye of the beholder, when will an employee's inappropriate comments cost him his job?

Robert Gillam held an important job as a supervisor working on pipeline projects in Western Canada, for Waschuk Pipe Line Construction, a male-dominated workplace. Three females worked at the job site, and one of them happened to be the daughter of the company's owner.

Gillam felt that the three female employees spent too much time socializing with the male employees and that they were responsible for work not getting done. As a result, in conversations with other employees, he consistently referred to them in very derogatory terms, blaming them for a number of his problems.

When the women complained that the name calling amounted to harassment, Gillam was warned that his job was on the line. Although the issue improved for some time, it did not disappear entirely. When the company's owner later learned that one of the female employees was considering suing the company, he decided that Gillam had to be fired without severance. Gillam sued, arguing that his conduct was not serious enough to justify his dismissal.

At a recent trial, Gillam's case was dismissed. According to the judge, it did not matter that Gillam did not make the derogatory statements directly to the female employees. Since they learned about his statements through others, it poisoned the workplace and qualified as sexual harassment nonetheless.

In the quest to define when an employee's inappropriate comments will amount to sexual harassment, there are some recurring themes:

- Whether there is a workplace harassment policy and whether its terms have been followed.
- Whether the employee was warned that the comments were offside. Here, Gillam was warned his behaviour could not be condoned, which contributed to the finding that his case should be dismissed.
- Whether the employee knew or ought to have known that the comments were unwelcome.

HR Management

You Can't Say That! or Can You? Is There Such A Thing As Consensual Sexual Banter In The Workplace?

An allegation of sexual harassment can be one of the most difficult and sensitive issues an employer faces. Despite training and policy awareness, people can cross the line. Untangling the web of who said what may be a challenge. Electronic communications may make proof easier, however, what do you do with a cross allegation that the communications were welcomed or consensual?

Is there a difference between consensual sexual banter and unwelcome sexual harassment? If so, how can you tell?

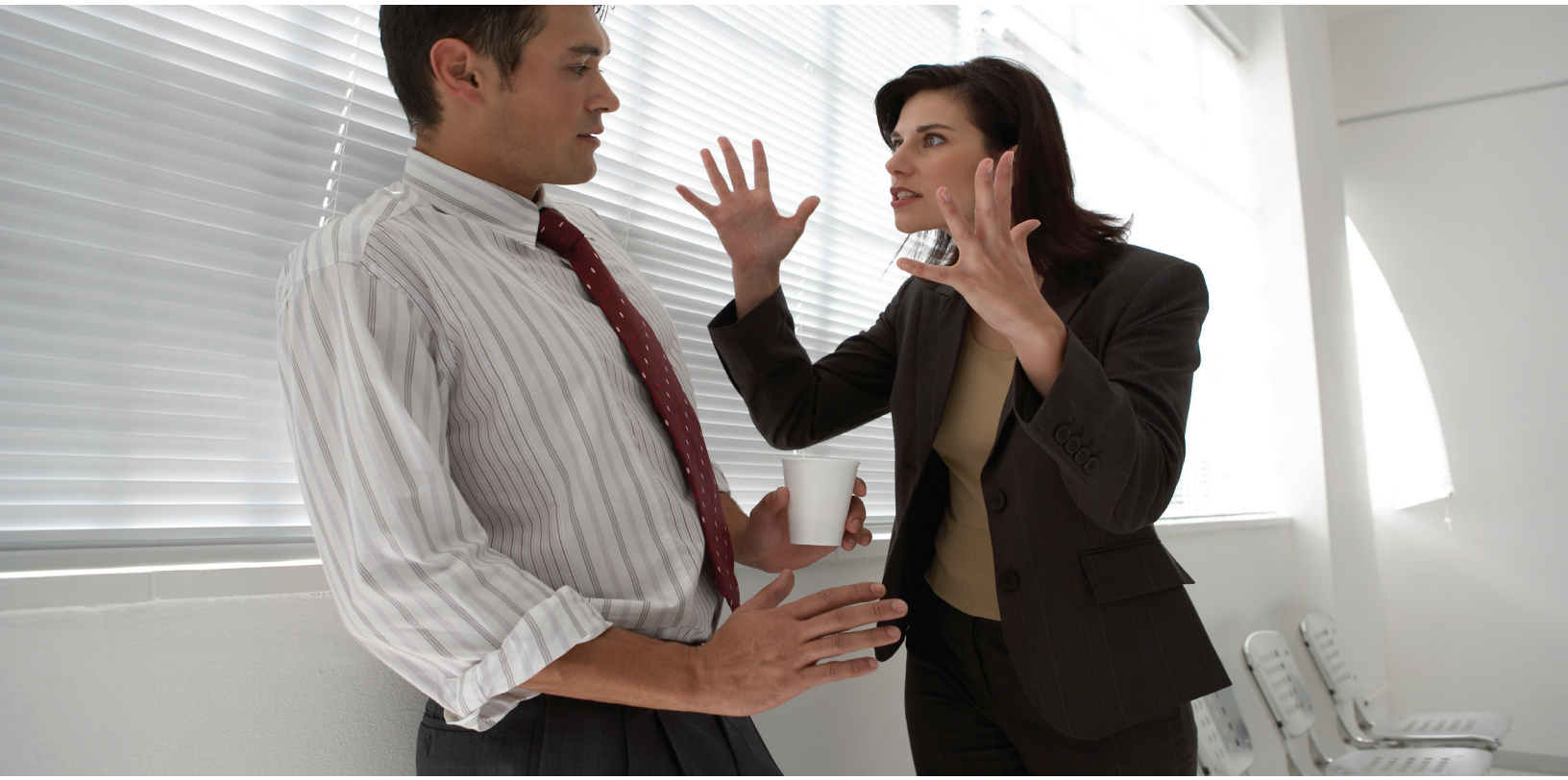
Recently the British Columbia Human Rights Tribunal considered this issue in Kafer v. Sleep Country Canada and another (No. 2), 2013 BCHRT 289. In this case, there was evidence of ongoing, explicit and crude sexualized conduct and language in the workplace. The complainant admitted that she frequently engaged in sexual banter with multiple co-workers and at times started those conversations. She also admitted that at times she felt that some of those conversations crossed the line at which point she spoke to the employees in question and asked them to stop making similar comments in the future. Her requests were complied with. However, crude sexualized banter continued. Following the receipt of an e-mail which set out a number of sexual references and made comments regarding her sexual orientation, the complainant determined matters had gone too far and complained to her manager about a wide range of conduct. The employer investigated the incident, disciplined the author of the e-mail, and told the complainant that it planned to train employees in appropriate behaviour.

Based on the totality of the evidence the Tribunal dismissed the complaint against the employer and an alleged harasser who was named personally. The Tribunal concluded that the conduct at issue would normally be considered sexual harassment on the basis of sex and sexual orientation. However, the Tribunal determined that the complainant would not be able to establish that an objective person should have known that she found the comments unwelcome given the degree of her participation in sexualized conversations.

This finding is particularly interesting in the face of the complainant's allegation that she felt she had to participate to "fit in." The evidence of very colourful and crude language often used by the complainant (inappropriate to repeat in this newsletter) probably tipped the scale against her.

The Tribunal made a point of reiterating the employer's duty to provide a workplace free of sexual harassment and that it was not a defence to say there was a workplace culture of sexualized joking and conduct. This highlights a distinguishing feature of the case. Only in rare cases will the complainant's own conduct lead the Tribunal to find that there is no reasonable prospect to prove that sexual comments or romantic advances were unwelcome from an objective point of view.

Employers are obligated to take proactive steps to create a harassment free workplace as well as investigate allegations and eliminate harassment when found. Where employees do engage in sexualized banter and conduct, the workplace will probably suffer from morale and retention issues and the employer may be exposed to liability. The absence of overt protest by an employee, or even some participation in sexualized banter, should not be read as condoning inappropriate behaviour. Employers should be proactive in eliminating inappropriate behaviour, particularly behaviour that from an objective view could be seen as unwelcome.



HR Management

Workplace Harassment Down, But Not Out

Workplace harassment has declined noticeably in Canada during the past two years, according to a poll commissioned by Queen's School of Business in Kingston, ON. The 2014 poll found that 23 percent of Canadians surveyed said they have personally experienced workplace harassment. In 2012's Queen's poll, 28 percent of respondents reported having experienced harassment at work. The latest Leger Marketing poll found that 25 percent of Canadians have witnessed harassment of co-workers, compared to 33 percent in the 2012 poll.

- Four percent of respondents reported that they were currently experiencing harassment on the job, or had been targeted within the past year. That number is unchanged from the 2012 poll.
- Thirty percent of men polled reported witnessing harassment of others in the workplace, compared to 20 percent of women polled. However, 31 percent of women reported having personally experienced harassment at work, compared to 22 percent of men.
- University-educated employees are the most likely to report that they have experienced or are currently experiencing workplace harassment (29 percent), compared

to those who have a high school education or less (23 percent).

- The percentage of Canadians reporting a male harasser has declined from 50 percent in 2012 to 42 percent in 2013, while the percentage of Canadians reporting female harassers has remained the same at 23 percent.

"It's encouraging that incidents of workplace harassment appear to be declining. It suggests that recent legislation and increased education against workplace harassment in Canada is helping. However, the fact that roughly one out of four people still admit to experiencing it personally is hardly cause for a celebration," says Jana Raver, Associate Professor at Queen's School of Business. "Society has made great strides in virtually eliminating many traditional job-related risks, and now we must apply the same commitment to eradicating workplace harassment, which is often less obvious."

Raver adds that while Hollywood may stereotype workplace harassers as males, the survey showed that an increasing percentage of Canadians now report witnessing it from both genders.

The Ontario Occupational Health and Safety Act defines harassment as "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome."

It includes bullying, intimidating or offensive communications, isolation of workers, hostile non-verbal displays, or sharing of offensive pictures or materials.

Supervisors cannot ignore an atmosphere of harassment. They must have clear policies in place, train workers on the fact that harassment and threats will not be tolerated, and act swiftly to confront workers who are accused of harassing others.

Workers at all levels in an organization who harass co-workers are courting serious trouble. Here are some possible outcomes:

- They can be disciplined and possibly fired.
- They can be sued for human rights violations, if the harassment is based on a worker's race, sex, or religion, for example.
- They can be prosecuted for OHS violations.
- They can be arrested and prosecuted if the harassment is physical or sexual.

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