



STRINGER LAW
PROFESSIONAL CORPORATION



PREVENTING VIOLENCE AND HARASSMENT IN THE WORKPLACE: A LEGAL PERSPECTIVE

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WORKPLACE SAFETY NORTH TIMMINS HEALTH AND SAFETY CONFERENCE

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THE RIGHT TO A HARASSMENT AND VIOLENCE-FREE WORKPLACE



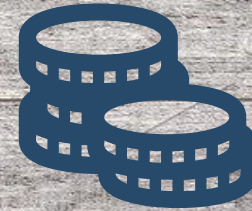
IMPACTS



Culture/Environment



**Psychological and
Physical Health**



Economic



93% of corporate executives believe they have a corporate culture that prevents harassment

43% of women surveyed and 12% of males surveyed said they were sexually harassed or assaulted at work

Four in five people surveyed said they had an unwanted experience at work, and didn't report it to their employers

Human Resources Professionals Association



TODAY'S ADGENDA



Legal Obligations



Definitions



Duties of employers, supervisors and workers



Investigations



Policies and programs



Employers' Legal Obligations





“engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought to have reasonably to be known to be unwelcome”

HARASSMENT DEFINED





Could be a single incident - assessed by nature of conduct not just number of times

“engaging in **a course** of vexatious comment or conduct against a worker in a workplace that is known or ought to have reasonably to be known to be unwelcome”

HARASSMENT DEFINED





Words or actions that
provoke; irritate;
threaten; annoy;
insult; demean; or
result in discomfort

“engaging in a course of **vexatious comment or conduct** against a worker in a workplace that is known or ought to have reasonably to be known to be unwelcome”

HARASSMENT DEFINED





“engaging in a course of vexatious comment or conduct **against a worker in a workplace** that is known or ought to have reasonably to be known to be unwelcome”

Includes work related events, social media, union meetings

HARASSMENT DEFINED





“engaging in a course of vexatious comment or conduct against a worker in a workplace that is **known or ought to have reasonably to be known to be unwelcome**”

Did the perpetrator know it was unwelcome? How was it received by the complainant? Would a reasonable person have known it to be unwelcome?

HARASSMENT DEFINED



SEXUAL HARASSMENT DEFINED



- “engaging in a course of vexatious comment or conduct against a worker, in a workplace because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making it is in a position to confer grant or deny a benefit or advancement to the worker and the person knows or ought reasonable to know the solicitation or advance is unwelcome”



WHAT IS ***NOT*** HARASSMENT?

Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Differences of opinion or minor disagreements between co-workers would also not generally be considered workplace harassment.



VIOLENCE DEFINED

“The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. It also includes an:

- attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; and a
- statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker”





DUTIES OF EMPLOYERS, SUPERVISORS AND WORKERS



OHSA Obligations Specific to Violence and Harassment



Policies



Program



Assessment



Training



Investigation

INVESTIGATIONS

- Investigation into “incidents” – not just formal complaints
- Adequate investigation = reasonable
 - professional and neutral
 - confidential
 - credible
 - consider and weigh all evidence
- Advise complainant and respondent of outcome and corrective action, if any
- Templates available from Ministry of Labour



WORKPLACE POLICIES AND PROGRAMS

Harassment

- Policy – Elements prescribed by Code of Practice and MOL has sample policy
- Program – Reporting, Investigation, Record keeping (See Code of Practice) prescribed by OHSA and MOL has sample program

Violence

- Policy – not prescribed by OHSA but MOL has a sample policy in a Guide
- Program – prescribed by OHSA and MOL has sample in a Guide

Overall

- Allow opportunities for feedback
- Review as often as necessary, at least annually





QUESTIONS?



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