

Statement of Grievance: The grievance presented is regarding a full-time summer employee working in the Conference and Accommodations division. The employee was bullied by their subordinates; although there were multiple bullies, the main subordinate who conducted this behaviour consisted of yelling at the grieving employee during working hours. The subordinate would yell at the grieving employee if they did or said something incorrect. When the employee brought the issue to their managers attention, the manager did not investigate the issue. The manager believed that the grieving employee was joking. The grieving employee had no evidence as they and the employee were typically working alone when these incidents occurred.

Case #1

Name of Case: Frayn v. Quinlan, 2008 NSSC 63

Date of Case: February 12, 2008

Issue: Patricia Frayn, a guidance counsellor with the Halifax Regional School Board (HRSB) commenced an action against her former principal and vice-principal for mental suffering and mental distress resulting from alleged bullying and harassment by the principal and vice-principal.

Award: Frayn was awarded \$750.00.

Why it Supports the Grievance: This case shows that there needs to be clearer wording in collective agreements surrounding bullying and harassment of any kind; many collective agreements are silent on the issues of bullying and harassment and therefore they fall outside the scope of the collective agreements. There should be clear guidelines to follow when dealing with and bringing forward harassment issues, whether it is regarding a prohibited ground or not.

Case #2

Name of Case: Boucher v. Wal-Mart Canada Corp., 2014 ONCA 419

Date of Case: May 22, 2014

Issue: Ms. Boucher was an assistant manager. She had been a long-time employee of Wal-Mart and had worked at a number of other stores as she progressed through her career. Her last stop was Windsor where she reported to Mr. Pinnock, who was the store manager. Mr. Pinnock frequently verbally abused her, humiliated her in front of her colleagues and deliberately set out to cause her to quit her job. In the end, she reached a point where his conduct was unbearable and was directly affecting her health.

Award: Against Mr. Pinnock \$100,000 for intentional infliction of mental suffering and \$10,000 in punitive damages; against Wal-Mart \$200,000 of aggravated damages and \$100,000 of punitive damages. Wal-Mart was also liable to pay \$140,000 in trial costs.

Why it Supports the Grievance: The case is a stern example of how seriously the courts (with or without a jury) will treat bullying and harassment by a manager and an employer's failure to effectively investigate and deal with such a situation.

Case #3

Name of Case: Hershey Canada Inc., Moirs Division AND Bakery, Confectionery & Tobacco Workers' International Union (BCT), Local 446

Date of Case: September 12, 2002

Issue: The grievor was issued a disciplinary letter threatening her with "further disciplinary actions up to and including dismissal" for stopping the line, leaving her workplace, and verbally abusing two other employees. However, the reasoning was due to continued sexual harassment on the line; the supervisor refused to allow her to report the incident.

Award: The Arbitrator directs that the letter be removed from the Grievor's file. The Arbitrator finds that, as the Union has not established a causal connection between time lost and wrongful discipline, no damages will be awarded. The Arbitrator orders that the Employer provide the Grievor with a written apology for the inadequate and inappropriate response to her complaint, for the flawed investigation leading to discipline being imposed on her, and for the inappropriate and deficient investigation and subsequent report on the sexual harassment complaint.

Why it Supports the Grievance: Although this case is regarding sexual harassment, it supports the grievance because of the nature of how the incident was handled. Hershey did not investigate the issue causing the grievor distress that affected her performance at work. When these issues aren't handled properly, they can cause friction and issues in performance for not only the grieving employee but perhaps the department or unit as a whole.

Works Cited

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