

Criticizing a Worker's Job Performance Isn't Harassment



Workplace harassment and bullying are serious problems. That's why the OHS laws in several jurisdictions specifically require employers to protect workers from harassment in the workplace. (Here's [a map](#) of the harassment and violence requirements in each jurisdiction.)

But it's not always clear what kind of behaviour qualifies as harassment. For example, a worker whose supervisor is critical of her performance and imposes high standards on her work may feel like she's being harassed.

In fact, that's exactly the argument that a social worker at a nursing home in Ontario made. She claimed that the home's new administrator was harassing her, including shouting at her in a meeting, imposing 'unrealistic workloads' and trying to impose stricter note-keeping requirements following interactions with patients. The worker also alleged that the administrator ordered her to work harder and longer to get the job done.

The social worker was eventually fired and filed a complaint with the Ontario Labour Relations Board, which dismissed the complaint, distinguishing between workplace harassment and performance management.

The Board explained that the *OHS Act* defines workplace harassment as the act of 'engaging in a course of vexatious comment or conduct against a worker that is known or ought

reasonable to be known to be unwelcome.’ Based on this definition, conduct that could constitute workplace harassment includes comments that demean, ridicule, intimidate or offend, bullying or sexual advances.

But this kind of behaviour must be distinguished from conduct that otherwise falls within a manager’s normal work functions, *even if* the worker suffers unpleasant consequences as a result.

Here, the worst that can be said is that the administrator made a blunt, unflattering assessment of the worker’s performance and demanded in no uncertain terms that she fulfill management’s work expectations or risk discipline. But this conduct didn’t constitute harassment.

For example, expecting the social worker to document her conversations with patients’ families was reasonable, said the Board. Perhaps the administrator could’ve used greater tact and sensitivity. But the Board noted, ‘The reality is that sometimes the exercise of management functions’ results in unpleasant consequences for workers. That does not necessarily translate into workplace harassment.’ And it doesn’t in this case, concluded the Board [[Amodeo v. Craiglee Nursing Home Ltd., 2012 CanLII 53919](#) (ON LRB), Sept. 19, 2012].

For information and tools on how Canadian jurisdictions handle workplace harassment and violence, go to the [Workplace Violence Compliance Centre](#). And because harassment can impact workers’ mental health, you can also find useful resources in the [Psychological Health and Safety Compliance Centre](#).

For a [safety talk on how harassment hurts](#), go to Safety Smart. Not a Safety Smart member? Sign up for a [free 14-day trial](#).