

Supervisor's Worksite Harassment of Non-Employee = Employment Discrimination



A foreman on a BC road construction project allegedly made homophobic and racist remarks to a civil engineer working on the site. The engineer sued the foreman's employer, the primary constructor in charge of the project, for discrimination. The BC Court of Appeal dismissed the complaint because the engineer wasn't the constructor's employee. But the Canadian Supreme Court reversed and allowed the case to go forward. As the worksite foreman, the foreman was 'an integral and unavoidable part of' the engineer's work environment, the Court reasoned. And his discriminatory behaviour had a detrimental impact on the workplace by forcing the engineer 'to contend with repeated affronts to his dignity.' All of this amounted to employment discrimination despite the absence of a direct employment relationship between the constructor and engineer [[British Columbia Human Rights Tribunal v. Schrenk](#), 2017 SCC 62 (CanLII), Dec. 15, 2017].