



Harassment and the *Canadian Human Rights Act*

The *Canadian Human Rights Act* contains the following prohibition against harassment:

- 14. (1)** *It is a discriminatory practice,*
- (a) *in the provision of goods, services, facilities or accommodation customarily available to the general public,*
 - (b) *in the provision of commercial premises or residential accommodation, or*
 - (c) *in matters related to employment, to harass an individual on a prohibited ground of discrimination.*
- (2) *Without limiting the generality of subsection (1), sexual harassment shall, for the purposes of that subsection, be deemed to be harassment on a prohibited ground of discrimination.*

1980-81-82-83, c. 143, s. 7.

Explanation

- protection against acts of harassment extends to incidents occurring at or away from the workplace, during or outside normal working hours provided such acts are committed within the course of employment, or in the provision of goods, services, facilities or accommodation;
- harassment may be related to any of the discriminatory grounds contained in the *Canadian Human Rights Act*. Such behaviour may be verbal, physical, deliberate, unsolicited or unwelcome; it may be one incident or a series of incidents. While the following is not an exhaustive list, harassment may include:
 - *verbal abuse or threats;*
 - *unwelcome remarks, jokes, innuendos or taunting about a person's body, attire, age, marital status, ethnic or national origin, religion, etc;*
 - *displaying of sexually explicit, racist or other offensive or derogatory pictures;*
 - *practical jokes which cause awkwardness or embarrassment;*
 - *unwelcome invitations or requests, whether indirect or explicit, or intimidation;*
 - *leering or other gestures;*
 - *condescension or paternalism which undermines self-respect;*
 - *unnecessary physical contact such as touching, patting, pinching, punching;*
 - *physical assault;*
- for a practice to be considered harassment it must be reasonably perceived as a term or condition of employment (including availability or continuation of work, promotional or training opportunities) or of the provision of goods, services, facilities or accommodation customarily available to the general public; or



influence decisions on such matters; or interfere with job performance or access to or enjoyment of goods, services, facilities or accommodation; or humiliate, insult or intimidate any individual;

- any act of harassment committed by an employee or an agent of any employer in the course of the employment shall be considered to be an act committed by that employer;
- an act of harassment shall not, however, be considered to be an act committed by an employer if it is established that the employer did not consent to the commission of the act and exercised all due diligence to prevent the act from being committed and, subsequently, to mitigate or avoid its consequences;
- harassment will be considered to have taken place if a reasonable person ought to have known that such behaviour was unwelcome;
- in investigating and deciding each case, there must be an objective examination of all the circumstances (including the nature and context of the incidents).

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