

Psychological harassment at work

What is psychological harassment in the work place?

Psychological harassment is vexatious behaviour that manifests itself in the form of conduct, verbal comments, actions or gestures characterized by the following four criteria:

- They are repetitive*;
- They are hostile or unwanted;
- They affect the person's dignity or psychological integrity, and
- They result in a harmful work environment.

Sexual harassment at work is also included in this definition.

What is vexatious behaviour?

It is humiliating or abusive behaviour that lowers a person's self-esteem or causes him torment.

It is also behaviour that exceeds what the person considers to be appropriate and reasonable in the performance of his work.

Psychological harassment may come from a superior, a colleague, a group of colleagues, a customer, a supplier...

* A single serious incidence of such behaviour may also constitute psychological harassment if it undermines the person's psychological or physical integrity and if it has a lasting harmful effect.

A few common ways in which harassment is expressed

- Making rude, degrading or offensive remarks.
- Making gestures that seek to intimidate, engaging in reprisals.
- Discrediting the person: spreading rumors, ridiculing him, humiliating him, calling into question his convictions or his private life, shouting abuse at him or sexually harassing him.
- Belittling the person: forcing him to perform tasks that are belittling or below his skills, simulating professional misconduct.
- Preventing the person from expressing himself: yelling at him, threatening him, constantly interrupting him, prohibiting him from speaking to others.
- Isolating the person: no longer talking to him at all, denying his presence, distancing him from others.
- Destabilizing the person: making fun of his convictions, his tastes and his political choices.

Management rights and normal conditions of employment

Psychological harassment must not be confused with the normal exercise of the employer's management rights, in particular his right to assign tasks and his right to reprimand or impose disciplinary sanctions.

Insofar as the employer does not exercise these rights in an abusive or discriminatory manner,

his actions do not constitute psychological harassment.

Prevention first

Prevention in the undertaking remains the best means of combating psychological harassment. It is the employer's responsibility to take reasonable steps to prevent psychological harassment and to put a stop to such behaviour when it is brought to his knowledge.

Sound management practices

- Promote respectful interpersonal communication.
- Manage the members of his staff fairly.
- Take quick and appropriate action to manage conflicts; do not allow the situation to deteriorate.
- Clearly define the responsibilities and tasks of each employee.
- Put in place in his undertaking a procedure that is known, efficient, credible and adapted to reality, to allow persons to report cases of harassment confidentially.
- Resort, in certain cases, to specialized resources to help put a stop to a psychological harassment situation and to prevent other such situations from arising.

What should you do in the event of psychological harassment at work?

Wherever possible:

- Talk about the problem you are experiencing with someone that you are close to, a person that you trust. Do not remain isolated;
- Express very clearly to the person who is the source of the unwanted behaviour your wish to see such behaviour cease immediately.
- Check inside the undertaking if there is a procedure making it possible to report the unwanted behaviour confidentially.
- Bring the matter to the attention of your employer who must put a stop to this behaviour by taking appropriate steps.

The Act respecting Labour Standards provides a recourse in the event of psychological harassment at work, which is available to every employee, whether unionized, non-unionized, or at the senior managerial level. The Act sets a 90-day period to file a complaint.

Interpretation

Section V.2, Psychological harassment

The notion of harassment has developed gradually in the labour relations field. An abundant jurisprudence, in particular on the themes of constructive dismissal and resignation, has recognized a form of protection in this field, both for employees benefiting from a collective agreement and for non-unionized employees.

Several forums have clarified the rights and obligations of the parties on this question. In the case of employees not covered by a collective agreement, courts of law and the commissioners of the Commission des relations du travail have had to elaborate on the question, in particular by interpreting the notion of the right to dignity conferred by the Civil Code of Québec.

As for unionized employees, arbitrators on grievances have established for some time now various guidelines making it possible to identify what is meant by the concept of harassment in the workplace.

However, recourses are currently scattered and fragmentary, with processes and procedures that are adapted in varying degrees to the circumstances of each case.

The objective of this legislation is first and foremost to make employers and employees aware of psychological harassment in the workplace and to permit actions upstream in order to avoid a deterioration of the work environment for the employee.

It was within this context that the new standards pertaining to psychological harassment integrated in the Act respecting Labour Standards (s. 81.18 to 81.20) were adopted. These standards are accompanied with a specific recourse (s. 123.6 to 123.16). Their entry into force has been set for June 1, 2004.

This protection applies to all employees, including senior managerial personnel (s. 3.1). Every employer is responsible for the obligations related to this protection.

These standards clarify the employer's obligations that already exist under the provisions of the Civil Code of Québec and the Charter of Human Rights and Freedoms. These provisions establish the right to dignity, to respect and to the person's integrity, while guaranteeing employees fair and sufficient conditions of employment and a healthy work environment.

The application of these labour standards should make it possible to standardize the various case law definitions established by specialized courts of law.