

Cameras in the Workplace: From Justified Surveillance to Psychological Harassment



In a [recent decision](#),^[1] the *Tribunal administratif du travail* (the “Tribunal”) concluded that an employer’s excessive surveillance by means of security cameras was a violation of its employees’ right to dignity and integrity, and accordingly allowed their psychological harassment complaints.

THE FACTS

Two employees of a retail store alleged that their employer had carried out excessive video surveillance resulting in inappropriate employer interventions. They filed a complaint of psychological harassment under section 123.6 of the *Labour Standards Act* (the “Act”).^[2]

Initially, the employer installed surveillance cameras to prevent shoplifting. The employer could activate the cameras remotely or view recordings at random. The complainants alleged that the employer used the cameras excessively, for purposes including:

- To call in to find out where a particular employee was – when the employee was in the camera’s blind spot;
- To express dissatisfaction with the productivity of employees when they spent too much time at the counter rather than scattered throughout the store;
- To ask to search certain employees’ handbags when they took long breaks; and
- To reprimand employees who used their cell phones.

The employees further alleged that the employer spoke abruptly, disrespectfully and unprofessionally during the interventions described above. The surveillance therefore created a hostile atmosphere between the employer and the employee; leaving them stressed, spied on and always on alert.

DECISION OF THE TRIBUNAL

The Act provides: “*Every employee has a right to a work environment free from psychological harassment.*”^[3] The complainants have the burden of proving, on a balance of probabilities, that they were subjected to psychological harassment. In return, the employer must show that it met its obligations to “take reasonable action to prevent psychological harassment and, whenever they become aware of such

behaviour, to put a stop to it.”^[4]

First, the Tribunal found that the video surveillance was excessive and unreasonable. The use of the cameras went beyond the initial objective, which was justified in principle, and became a tool for regular and systematic monitoring of employees. While there was a real issue with employees’ compliance with the employer’s cell phone policy, the surveillance carried out violated the employees’ right to privacy. It was found that the use of surveillance cameras was disproportionate since the actions taken as a result often exceeded surveillance of compliance with the cell phone policy or prevention of shoplifting. This was vexatious conduct on the part of the employer.

Second, the Tribunal determined that the excessive surveillance was a form of psychological harassment. The employees were aware that they were constantly being filmed while they were working. They were constantly fearful of doing something wrong or being absent for too long. In other words, this surveillance was a violation of the dignity and integrity of the employees, who suffered anxiety, humiliation and felt devalued. The result was a harmful work environment.

The Tribunal therefore concluded that the employer had failed to meet its legal obligations by engaging in surveillance that constituted psychological harassment, in the circumstances. Although the staff’s dissatisfaction had been brought to the employer’s attention, the employer had taken no action to remedy the situation and the video surveillance remained unchanged. It had therefore failed to meet its obligations under section 81.19 of the Act and the complaints of psychological harassment were upheld.

The Tribunal also upheld a complaint of dismissal without just and sufficient cause, concluding that the dismissal of one of the complainants resulted from the video surveillance.

TAKEAWAY POINTS

Retail businesses commonly equip their stores with video surveillance systems to monitor and prevent shoplifting. Although the case law generally approves the use of this type of measure, the decision that is the subject of this bulletin is a reminder that the use of such tool must be circumscribed and must respect employees’ integrity and dignity. Excessive and unreasonable surveillance to monitor employees, and the resulting inappropriate actions, can create a harmful work environment and ultimately, in certain circumstances, constitute a violation of the applicable legislation regarding harassment in the workplace.

This decision is also a reminder to employers of their statutory obligations to prevent and respond to psychological harassment. When a report is made, an employer must therefore make serious efforts to assess the merits of a complaint and, if applicable, take reasonable measures to put an end to the situation complained of, when the practice is, in fact, contrary to the governing statutory requirements.

[1] *Lazzer v. Magasin Baseball Town inc.*, 2022 QCTAT 478.

[2] CQLR, c. N-1.1

[3] *Supra*, note 2, s. 81.19.

[4] *Ibid.*

Source: [Fasken](#)

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