

# Has Your Workplace Become Toxic?



**A belief that your workplace has become intolerable does not make it so.**

[Workplaces](#) are often defined differently by different employees. Positive work environments are commonly labelled as welcoming, collaborative, empowering, inclusive, and so on. Toxic workplaces, on the other hand, are usually deemed as unsupportive, tense, or hostile.

We are encountering a growing number of employees and employers concerned that their workplace has become toxic, and the descriptions, explanations and justifications for the unease are almost never the same. And while the term “toxic workplace” is fashionable nowadays, there is no concrete legal test to determine its existence.

However, this doesn’t mean the risks of a toxic workplace aren’t real. For starters, health and safety laws across the country generally require that employees be provided with a healthy and safe workplace. Failure to do so can attract complaints, workplace investigations, audits led by government agencies, substantial fines, and other forms of sanctions.

Additionally, employees facing a toxic work environment can file a constructive dismissal lawsuit and demand severance. In such instances, the employer’s failure to provide a suitable workplace environment amount to fundamental and unilateral changes to the employment agreement.

Another factor to consider is whether the egregious conduct or harassment an employee experiences relates to a protected human right such as sex, race, or religion. Employers engendering toxic environments are at risk of receiving a human rights complaint.

In our view, it is equally important to identify what is not a toxic workplace.

Too often, we hear complaints of a toxic workplace founded upon common annoyances that would not stand up to legal scrutiny. It has long been established that employers have substantial latitude to manage their operations and their workforce, and to criticize an employee’s conduct, even if that criticism is communicated discourteously. Put differently, an employee is not the object of a toxic work environment simply because a new manager limits their break time or demands a higher quality work product.

For example, in a recent court case, Keith Farm, an executive chef at the high-end Island Lake Resort in British Columbia, returned from a medical leave and was

instructed by the employer to limit his communication with other staff members due to his, shall we say, poor communication skills. Coincidentally, Keith's wife, who worked for the same resort, was terminated for unrelated reasons.

Upset by the employer's instructions and his wife's dismissal, Keith made the personal determination that the workplace was toxic and deemed himself constructively dismissed.

The court disagreed, and determined that Keith had resigned, and as a result nothing was owed to him. In concluding that Keith's lawsuit must fail, the court opined that his allegations of a toxic workplace were tainted by his wife's dismissal.

This serves as a cautionary tale that before taking any action, employers and employees should seek legal advice if they believe a workplace has become toxic. To avoid the emergence of a toxic workplace altogether, we recommend employers act pre-emptively by monitoring their office culture and implementing systems for identifying issues before they go too far. These might include instituting comprehensive policies, practices and training that address how to handle workplace issues. Lastly, employers should quickly respond to and investigate any complaints as they arise. An attentive employer can be an effective antidote for a poisonous work environment.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

Authors: [Howard Levitt](#), [Stephen Gillman](#)

Levitt Law