

"If You Think Your Salary Is Low . . .": Employer's Presentation Was "Offensive, Distasteful And Inappropriate As A Motivational Tool", But Not Illegal



An adjudicator has criticized an employer's motivational presentation as "offensive, distasteful and inappropriate as a motivational tool", but found that it was not illegal.

The presentation was delivered by a Regional Manager with the Ontario Ministry of Transportation to Transportation Enforcement Officers employed by that Ministry. It was called, "New Year New Outlook".

The presentation contained "graphic imagery of poverty in the developing world" and compared this imagery to "trivial" problems in the developed world. One slide asked, "If you think your salary is low, how about her?" accompanied by a photo of a child. Another slide asked, "Why do we complain?" while the next slide stated, "Let's Have New Expectations!"

Some employees, noting that the collective agreement was set to be negotiated that year, felt that the presentation was a tool to disincentivize the union from bargaining an advantageous agreement for them. One employee said she felt that the presentation was calling her and other employees lazy and insinuating that they demanded too much. Employees felt that the presentation was condescending and presumptuous and suggested that they were lucky to have jobs.

The union argued that since the majority of the images of poverty in the developing world showed people of colour, the use of those images violated the *Human Rights Code*. The adjudicator, a member of the Grievance Settlement Board, noted that none of the employees asserted that they have racial characteristics that were protected under the *Code*; hence, there was no discrimination proven.

The union also argued that the presentation constituted harassment under the *Human Rights Code*. The adjudicator rejected that argument because the union had not even "asserted that the harassment alleged to have taken place was because of a protected characteristic possessed by any of the" employees.

Lastly, the adjudicator decided that there were no facts asserted that showed that

any of the employees suffered any discriminatory treatment because of their union membership or activity. The employer's message that they should be content with their employment terms was not discriminatory because of their union membership.

The adjudicator went on to state that by deciding that the presentation did not violate the collective agreement or the *Human Rights Code*, he was not saying that the presentation was "fine". Instead, he stated:

"The Board's acceptance for purposes of this motion that the presentation was offensive, distasteful and inappropriate as a motivational tool, cannot possibly lead to a finding that any of the collective agreement or statutory rights of the grievors were violated . . . The dismissal of these grievances on the basis of absence of jurisdiction is certainly not, and ought not be seen as, a finding by the Board that the employer conduct was 'fine' or that the Board endorses such conduct. The fact that 39 individuals found the presentation to be offensive to such an extent to cause them to grieve, speaks for itself. The employer, through communications of regret/apology appears to have realized that the presentation was negatively received by a large number of employees."

The grievance against the presentation was therefore dismissed.

[Ontario Public Service Employees Union \(Brydges et al\) v Ontario \(Transportation\)](#),
2014 CanLII 74778 (ON GSB)

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