Inter-Personal Conflict: Is Dysfunction between Coworkers Grounds for Constructive Dismissal?



While it's surely unpleasant, having a bad relationship with another person in the workplace is generally *not* grounds for constructive dismissal. Employees are expected to tolerate some degree of unfriendliness, confrontation and even hostility from their coworkers, subordinates and superiors. But what they don't have to tolerate is a poison work environment that makes it impossible to do the job. The tricky part for HR directors is recognizing when the line is crossed.

The 4 Key Factors
Whether the:
1. Coworker's behaviour was beyond what a reasonable person would tolerate 2. Behaviour substantially interfered with the employee's ability to do the job 3. Employee claiming constructive dismissal caused or contributed to the problem 4. Employer condoned the co-worker's behaviour

Here are 2 cases illustrating how courts apply the above factors to decide if employees driven out by inter-personal conflict have a valid claim for constructive dismissal. (Although both cases come from BC, the same principles apply in every other jurisdiction.)

CASE 1: INTER-PERSONAL CONFLICT = CONSTRUCTIVE DISMISSAL

Situation: Susan really enjoyed her job as beverage manager until the pub hired a new kitchen manager and gave him total authority over food presentation and customer complaints. While losing control over those 2 areas was tough, it was nothing compared to the new kitchen manager's hostility and the verbal abuse he unleashed when receiving reports of customer complaints. After 2 years of abuse and fruitless complaints to management, Susan decided she couldn't take it any more and resigned.

Ruling: The BC Supreme Court ruled that Susan was constructively dismissed and awarded her $38.3K (13 months' salary) in damages.

Reasoning: The court cited 3 factors for finding constructive dismissal:

- The kitchen manager's constant yelling, belittlement and swearing at Susan and her staff, including at times when customers could hear;
- His defensiveness and consistent refusal to accept any criticism of his food—"I

don’t send out food if it’s not presentable” was his mantra; and
- The owners’ repeated dismissal of Susan’s complaints and refusal to discipline the kitchen manager, which belied the pub’s purported “zero tolerance” of rudeness policy.

Morgan v. Chukal Enterprises Ltd., 2000 BCSC 1163 (CanLII)

CASE 2: INTER-PERSONAL CONFLICT ≠ CONSTRUCTIVE DISMISSAL

Situation: To call it bad blood would be to understate the degree of enmity between a veteran estimator and his subordinate. Over time, the estimator went to management with a series of accusations against the subordinate, including doing outside work on company time, insubordination, intimidation, verbal abuse and harassment. Frustrated by management’s failure to discipline the subordinate and convinced that he was being forced out, the estimator resigned and sued for constructive dismissal.

Ruling: The BC Supreme Court rejected the estimator’s constructive dismissal claim.

Reasoning: The court relied on the same factors cited in the *Morgan* case but this time they worked to the employer’s advantage:

- The estimator exaggerated the subordinate’s transgressions which didn’t rise to the level of harassment or threats of violence or interfere with the estimator’s ability to do his job;
- Each man contributed to the bad blood but, unlike the subordinate, the estimator refused to accept any responsibility for the dysfunctional relationship;
- The employer didn’t condone or rationalize the subordinate’s conduct—it investigated the estimator’s allegations and found them to be untrue;
- The employer urged both men to work out their differences and disciplined the subordinate when he actually did use profanity with the estimator; and
- The employer wasn’t trying to drive out the estimator but wanted to keep both him and the subordinate.

Baraty v Wellons Canada Corp., 2019 BCSC 33 (CanLII)

Bad blood and dysfunctional inter-personal dynamics between coworkers isn’t enough. To justify constructive dismissal, there must be harassment, violence, intimidation, abuse or other conduct or treatment that no reasonable person would tolerate and that makes it impossible for the victim employee to do his/her job.