Is Your Holiday Party a Religious Discrimination Liability Risk?



What's At Stake

Human rights laws ban employers from forcing employees to do something inimical to their religious beliefs. Stated simply, you can't force employees to choose between their job and their religion. The problem is that company policies, practices, procedures or schedules that appear neutral and totally non-religious on their face might have discriminatory effects. Year-end holiday parties and celebrations are a case in point. While they may feel like a time-out from work, the company-sponsored holiday party is just an extension of the workplace as far as discrimination laws are concerned. Result: The things that happen before, during and after the party can give rise to claims for religious discrimination.

To illustrate, here's a fictional scenario based on real-life cases of alleged religious discrimination involving the holiday party. Your assignment: Spot all the things the employer in the scenario did wrong.

SCENARIO

ABC Company holds an annual Christmas Party at its offices. It's a festive event during which alcohol is served and carols and hymns are sung. Best of all, employees get paid for their time attending the event. But, alas, all is not of comfort and joy this year.

First, there's the situation with Jack, a Jehovah's Witness, who refuses to decorate his office for the occasion on religious ground. As a result, he's fired for insubordination. Jill, who happens to be Jewish, asks out of the party because the caroling makes her uncomfortable. The Company reluctantly grants her request but doesn't pay her for those hours. Ali attends the party but refuses to drink alcohol because it violates his religion. When he tells the boss his reasons for abstaining, she insists that he "loosen up" and down a cocktail.

SPOT THE MISTAKES

There are at least 4 things that ABC Company did that could lead to liability for religious discrimination:

1. Making Event Religious Rather than Secular

Calling it a “Christmas party” and singing religious carols and hymns gives the event a distinctly religious feel. The Company would be a lot better off calling it a “holiday party” and dispensing with the hymns and carols (at least the non-secular carols).

2. Firing Jack for Refusing to Hang Christmas Decorations

The storyline of Jack the Jehovah’s Witness who gets fired for refusing to participate in Christmas decorating is based on an actual case called *Jones v. Eisler* in which the BC Human Rights Tribunal awarded the terminated employee $21.2K for lost wages, $4.7K for lost vacation and $3.5K for injury to his dignity, feelings and self-respect.

3. Docking Jill for Not Attending the Christmas Party

Protections against religious discrimination require employers not only to tolerate but also make reasonable accommodations employees’ religious beliefs. In this case, the Company should have excused Jill *without* docking her pay for not attending the event. In other words, Jill suffered adverse treatment as a direct result of exercising her religious beliefs.

4. Pressuring Ali to Consume Alcohol

The boss’s insistence that Ali drink a cocktail is a clear act of religious discrimination. The key is that Ali directly told the boss that drinking was against his religion. By contrast, in a recent Ontario case, a Muslim employee who claimed he suffered religious discrimination and workplace ostracism for not attending after-work drinking events at a local bar lost because there was no evidence that anybody at work was even aware of his faith or religious objections to alcohol [*Khalil v. Myplanet Internet Solutions Ltd.,* 2019 HRTO 1248 (CanLII), September 12, 2019].