

Pronouns In The Workplace



Two recent decisions, one in BC and another in Ontario, found that employers can be held liable for improper use of pronouns in the workplace. Employers who refuse to recognize an employees preferred pronouns are likely to be on the hook for damages. Using improper pronouns or refusing to use preferred pronouns in the workplace is considered [workplace discrimination](#).

The Ontario case involved three employed individuals working at a bar/lounge whom used “they/them” as their pronouns. These employees all asked their employer, Jamie Gallagher of Gallagher’s Bar and Lounge, to refer to them with their preferred pronouns. Gallagher refused to do so, and to make matters worse he used transphobic slurs when referring to these three employees. The three employees attempted to address the matter asking Gallagher to respond to their concerns to which he denied and refused to appropriately handle the matter. The employees considered this as constructive dismissal and they felt they could no longer work for Mr. Gallagher based on his discriminatory actions and ultimately his inactions to resolve and correct his conduct. As a result of failing to deal with the employees concerns when they were first brought to Gallagher’s attention, the Human Rights Tribunal of Ontario found that this case was a breach of the Human Rights Code under discrimination of gender identity, gender expression and sexual orientation. As a result of breaching the *Code*, the tribunal awarded the three individuals \$10 000 each in lost wages and compensation for injury to dignity, feelings and self-respect (EN v. Gallagher’s Bar and Lounge, 2021 HRT0 240 [[CanLII](#)]).

A similar case unfolded in BC where the Human Rights Tribunal awarded a restaurant employee, Jessie Nelson, \$30 000 for unfair termination and workplace discrimination. In this case, Nelson was a server at a small-town restaurant and uses “they/them” as their preferred pronouns. In this case, a co-worker was particularly negligent to the complainant’s preferred pronouns and repeatedly offended them by using “she/her” and gendered nicknames in the workplace. Tensions rose between the two employees resulting in a verbal altercation. Nelson was terminated four days after this argument. They believed the co-worker’s conduct towards them and then the employer’s response to the matter amounted to workplace discrimination based on their gender identity and expression. The case was brought to the Human Rights Tribunal of BC and the employer’s and co-worker were found in breach of the Human Rights Code, discriminating against Jessie Nelson on the basis of their gender identity. The BCHRT ordered the co-worker and restaurant to pay \$10 000 as compensation for injury to Nelson’s dignity, feelings and self-respect and ordered the employer’s to pay an additional \$20 000. The restaurant was also ordered to add a statement to its employee policies that affirms every employee has a right to be addressed with their

preferred/correct pronouns and implement mandatory training for all staff associated with the restaurant about workplace rights (Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others, 2021 BCHRT 137 [[BCHRT](#)]) .

To protect yourself and your company from similar [discrimination claims](#), you should ensure your employee policies ensure every employee has the right to be addressed with their correct pronouns and respond promptly to any complaints from employees on the grounds of discrimination of gender identity. Complaints of discrimination in any form carries serious consequences for any company, for companies who put their “heads” in the sand with discrimination [issues heavy legal and financial penalties will flow.](#)