

Sexual Assault After A Company Social Event: What Are The Employer's Obligations?



At the beginning of the year, the Administrative Labour Tribunal (the “ALT”) handed down a landmark decision at the intersection of psychological harassment, sexual violence, and employment injury claim. It reminds us that the employer’s obligation to protect its employees does not necessarily end at the workplace door, nor at the official end of a company-sponsored social event.

In the [De Sousa](#) case, the ALT concluded that psychological harassment involving sexual violence had occurred, that the employer had failed in its duty to prevent such harassment, and that the worker had suffered a work-related psychological injury, even if the assault took place at the worker’s home after the event had apparently ended.

Factual context

The worker, a data analyst, attended a party organized by her employer to celebrate the launch of a video game. The event took place at a hotel in Old Montreal. The employer reserved the hall, covered the costs, supplied the alcohol (a drink on arrival and drink tickets), and invited both employees and some consultants who had worked on the project.

At the end of the evening, the worker was heavily intoxicated. She said she was feeling unwell and explicitly asked to be taken home, as she was afraid to return on her own. A consultant working for the employer, who was also at the party, offered to escort her home. The two left the hotel together in a taxi, and the consultant accompanied the worker to her home.

Once there, despite several clear refusals, the consultant sexually assaulted the worker. The worker reported the incident to her employer a few days later. A few days after that, the employer terminated the consultant’s contract.

A single serious incident constituting psychological harassment

At the outset, the ALT noted that, pursuant to section 81.18 of the *Act respecting labour standards* (the “ALS”), a single serious incident may constitute psychological harassment when it violates an employee’s dignity or integrity and has a lasting,

harmful effect.

In this case, the ALT easily concluded that the sexual assault of the worker constituted serious, hostile, and unwanted vexatious conduct. The evidence also showed that the psychological consequences for the worker were significant and long-lasting, including an inability to return to work, an anxiety disorder, suicidal ideation, prolonged medical follow-up, and a career change.

Thus, despite the absence of repeated conduct, the ALT found that all the criteria for psychological harassment had been met.

The concept of “connectedness” and the absence of a break in the chain of events

A central aspect of this decision was the scope of the employer's obligations, given that the alleged event occurred outside the workplace and after working hours.

The employer argued that the assault, which took place at the worker's home after the party had ended, was a personal matter with no connection to work. The ALT rejected this argument.

Drawing on extensive case law, the ALT reiterated that the concept of “workplace” must be interpreted broadly and liberally, given the public policy character of the ALS. An employer may therefore be held liable for conduct occurring outside the workplace or working hours if the conduct is sufficiently connected to work.

In this case, the ALT identified several factors that supported the existence of such a connection:

- the social activity was initiated, organized, and paid for by the employer;
- the worker's presence at the event was voluntary, but clearly encouraged for the purpose of team building and engagement;
- the consultant who assaulted the worker was a third party whose services were used by the employer and who was invited to the event;
- the worker's vulnerable state was a direct result of the evening's events, which included alcohol consumption;
- there was no break in the chain of events between the party, their departure from the hotel, the taxi ride, and their arrival at the worker's home.

The ALT emphasized that this was not a free and informed decision by the worker to continue the evening elsewhere, but rather a situation where she sought help getting home because she was in a vulnerable state.

The duty to prevent harassment: a burdensome obligation

While the ALT acknowledged that the employer had acted diligently to address the situation once it had been informed of the assault (by terminating the consultant's contract), the tribunal nevertheless found a breach of the obligation to prevent harassment under section 81.19 of the ALS, citing two main reasons.

First, although the employer had a harassment prevention policy in place, it was unable to demonstrate that the policy had been communicated to the consultant or that the consultant had received training or clear instructions regarding expected behaviour.

The ALT noted that an employer's duty to prevent harassment extends to third parties with whom employees interact in the course of their work.

Additionally, the ALT was particularly critical of the employer's management of alcohol consumption and departure procedures:

- distribution of additional drink tickets at the end of the evening;
- no real control over consumption;
- no responsible person in charge of supervising departures;
- simply providing an Uber payment code, with no tangible support for intoxicated individuals.

According to the ALT, these shortcomings significantly contributed to the vulnerable situation in which the worker found herself.

Recognition of an employment injury

The ALT recognized that the worker had suffered a work-related psychological injury under the terms of the *Act respecting industrial accidents and occupational diseases* (the "AIAOD").

The employment injury in this case occurred before the new presumption regarding sexual violence (section 28.0.1 of the AIAOD) came into force. Although that section cannot apply retroactively, the ALT found that the traditional criteria for a "workplace accident" were satisfied:

- the occurrence of a sudden and unforeseen event;
- attributable to any cause;
- arising out of or in the course of work;
- resulting in an employment injury.

As with the analysis of whether harassment had occurred, the ALT thoroughly considered the concept of connectedness to determine whether the assault had occurred "in the course of work", concluding that it had.

The ALT noted that although the assault took place at the worker's home, the employer's poor management of the evening caused the worker to leave hastily, without the ability to make informed decisions, and in conditions that jeopardized her health and safety.

The ALT also emphasized a fundamental point: the victim's alcohol consumption could not mitigate the employer's obligation to prevent harassment nor transfer responsibility for the assault to the victim.

Practical lessons for employers

This decision confirms that work-related social activities can give rise to an employer's liability well beyond the official duration and location of such events.

Employers should bear in mind that:

- prevention policies should expressly cover social activities and third-party guests;
- prevention is not limited to having a written policy; it requires concrete measures tailored to the context;
- alcohol management and safe return are now central health and safety issues;
- the boundary between professional and personal life is particularly blurred when an employee's vulnerable state is directly caused by an activity organized by the employer.

Conclusion

The ALT's decision in the *De Sousa* case sends a clear message: when an employer organizes a social event, it must assume the foreseeable risks and implement context-appropriate preventive measures.

In a legal environment marked by stronger protections against sexual violence in the workplace, this decision invites employers to proactively review their practices surrounding corporate events in order to adequately protect their workers and limit their legal exposure.

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.

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