

Sexual Joke Was "Worse Than The Usual Sexual Humour Of The Workplace"



A hydro worker's sexual harassment of a co-worker, including an offensive sexual joke, justified his dismissal, the Ontario Labour Relations Board has held.

The OLRB found that the employee was upset by the fact that his female co-worker was on the way to being in a supervisory position to him. The employee set about trying to belittle and isolate the co-worker. He made disparaging comments about her abilities. Perhaps most concerning was his telling of "the bulldog joke" which contained sexual references which were both objectifying and disparaging of women. The OLRB stated that, "This joke was qualitatively worse than the usual sexual humour of the workplace." It was reasonable for the female co-worker to experience this joke as being directed towards her, the only female present at the time. The employee ought to have known that the joke would be extremely offensive to her.

The employee also made a comment about his wife that disparaged and objectified her and disparaged women in general. In disparaging women, the employee sent the message to others that his female co-worker did not belong on the worksite.

Interestingly, the union argued that the fact that the co-worker had asked to be treated as "one of the guys" was a "mitigating factor" suggesting that the employee's conduct was not as serious. The OLRB disagreed, stating that the female co-worker wanted – and was entitled to – "fair opportunity, fair treatment and fair acceptance".

The OLRB held that the employee engaged in a course of conduct of sexual harassment and bullying behaviour towards his female co-worker. His actions could not be viewed as a series of isolated incidents. Further, over his 3 1/2 years with the company, he had been insubordinate time and again. In conclusion, the OLRB held that the employer had just cause for immediate dismissal of the employee.