

Failing to Respect LGBTQ+ Pronoun Choices Can Cost You Big Bucks: The Glenn Commandments



Transgender employees may want their employers and co-workers to refer to them using pronouns that don't match their birth gender. For example, employees born as males that identify as female or a combination of male and female may prefer the pronouns she/her/hers or they/their/them. Respecting these pronoun choices isn't just a matter of being "woke"; it's essential to avoid [liability for gender identity and expression discrimination under human rights laws](#).

Failure to Use Respect LGBTQ+ Employee's Pronoun Choices Costs Employer \$30,000

A BC employer recently learned this lesson the hard way. The protagonist of the story is Jessie Nelson, a non-binary, genderfluid, transgender person who wants to be referred to using they/them rather than she/her/hers pronouns corresponding to the gender they were assigned at birth. Jessie made this clear to their employer, a restaurant in a small town along BC's Sunshine Coast. But the bar manager insisted on referring to Jessie with not only she/her/hers pronouns, but also gendered nicknames like "sweetheart", "honey", and "pinky." Jessie asked the manager to stop but he didn't listen. Jessie then asked management to intervene but was told that they'd have to wait a while longer before anything could be done. Frustrated by the lack of action, Jessie tried again to speak to the bar manager. The discussion grew heated and 4 days later, Jessie was fired for coming on "too strong too fast" and being too "militant."

The BC Human Rights Tribunal ruled that the manager's use of female pronouns and gendered nicknames amounted to gender identity and expression discrimination. I'm just an old school salty guy who has trouble getting along with other people in the workplace and doesn't understand this whole they/them pronouns concept, the manager argued. But the Tribunal wasn't impressed. "I appreciate that for many people the concept of gender-neutral pronouns is a new one [requiring them to] undo the 'habits of a lifetime.'" But, the Tribunal continued, this learning experience shouldn't be "done at the expense of trans and non-binary people, who continue to endure the harm of being misgendered."

Besides, the manager's misgendering of Jessie wasn't just a mistake but a deliberate

act of hostility. The manager even explained the reason for his hostility to Jessie in his final conversation with them, during which he accused them of “policing” his language and undermining the freedoms his grandfather had fought for in the war.

The Tribunal also found other members of management liable for discrimination. They knew what was going on but didn’t do anything to stop it, leaving Jessie to endure the abuse alone. Then, when they finally did act, their solution was to resolve the problem by getting rid of Jessie. So, in addition to \$30,000 in damages for injury to Jessie’s dignity, the Tribunal ordered the restaurant to implement a pronoun policy and mandatory [diversity, equity and inclusion](#) training for all staff and managers [[Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria](#), 2021 BCHRT 137 (CanLII)].

Takeaway: Take Steps to Avoid LGBTQ+ Pronouns Discrimination

The *Nelson* case is a perfect illustration of what can happen to a company that doesn’t take the LGBTQ+ pronouns issue seriously. [Best Practices](#):

- Create and implement a [written policy](#) banning discrimination and harassment on the basis of sexual orientation, gender identity and gender expression or incorporate such protections into your current general anti-discrimination and harassment policy.
- State that all employees have the right to be addressed by the name and pronoun that correspond to the employee’s gender identity, upon request, without a court-ordered name or gender change.
- Make it clear that intentional, persistent, or unreasonable refusal to respect an employee’s gender identity, such as by using a “his” or “her” pronoun that doesn’t correspond to the employee’s gender identity, may constitute harassment and grounds for discipline.