Understanding The Duty to Accommodate – A Case Study

Employers in Canada must follow human rights legislation that outlines the duty to accommodate. This legislation often applies to people with disabilities but also applies in other circumstances, such as age, family status, race, and gender identity. These laws require employers to remove barriers that have a negative impact on employees protected under these laws to the point where they cause undue hardship, like costs, health, and safety.

When considering requests for accommodation, several factors are considered under human rights law. For example, significant financial costs, the size and resources of the employer, disruption of operations, morale problems of other employees that could result from using the accommodation, and substantial interference with the rights of other employees. Let's discuss two cases to practically apply these legal concepts to the experience of a person living with psoriasis – a chronic skin disease that causes red, itchy scaly patches, most commonly on the knees, elbows, and scalp.

Case studies – what could the employer have done?

Carolyn

Carolyn works as a server and bartender in a restaurant. She performs well and receives the highest tips from customers. One day, she was tending the bar at a special event and one of the customers said "*I'm not taking that drink from you. You're contagious!*" Carolyn has psoriasis on her arms and the customer saw the plaques or raised, inflamed and scaly patches of skin on arms – one of the visible effects of the condition. She told the customer the skin plaques were not contagious, yet they still refused to receive a drink. The customer raised the issue with the supervisor who sent Carolyn home for the evening. *What could the supervisor have done differently? Did they meet the requirements to accommodate her needs?*

In an alternate scenario, the supervisor can speak with Carolyn privately to understand her restrictions and limitations at work (not a medical diagnosis). At that time, Carolyn could have asked for assistance or accommodation. The supervisor can be assured by her statement that the condition is not transmissible (health and safety). If satisfied, the supervisor can reaffirm that Carolyn was not contagious and that she does an excellent job at bartending and serving customers. The supervisor can keep Carolyn at work and address the customer's accusations. Supporting the employee publicly and in the moment increases trust and strengthens

the relationship between the supervisor and Carolyn.

John

John struggles with his health. Every day he decides what he had the energy to do. He did not let others know that he has health struggles that affect mental health and confidence. He works at an airline and wears gloves to hide the psoriasis plaques on his hands which prevents bleeding and keeps customer interactions positive. John's supervisor asks that he remove the gloves because it was not part of the standard uniform. *What could the supervisor have done differently? Did they meet the requirements to accommodate his needs?*

In this case, the supervisor can ask John why he uses gloves and start a private conversation. The supervisor could explore an exception to the uniform policy and speak with John about if this is communicated to other workers. In a conversation with John, they can discuss other services available to help him, such as access to mental health resources like employee assistance counselors or services offered by the public health care system.

It is clear that people with disabilities, including those living with psoriasis or psoriatic arthritis, are an integral part of the labour market and workforce. There are close to 1 million people in Canada who live with psoriasis so there is a high likelihood you know or work with someone with these conditions. Often people with psoriasis or psoriatic arthritis are doing their best to stay at work and many don't ask their employers to be accommodated. In the Working it Out report developed by the Canadian Psoriasis Network and Canadian Association of Psoriasis Patients, only a third of those polled agreed that they could access needed workplace adaptations or accommodations.

Workplace accommodation can be a simple, straightforward process that don't cost a business or organization a lot. The best solution is often a flexible mindset to consider alternative ways of carrying out work and focus on the essential job duties. Employers can do a few simple things, such as:

- getting informed about the legal responsibilities for employees and employers
- creating a workplace accommodation policy to make the workplace accommodation process clear for everyone
- communicating regularly with employees early as every interaction can set a positive tone and make it easier for employees to ask for accommodation

Doing these simple things will make it easy for employees to ask for what they need, and for workers to bring their best to the workplace.

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