



BULLETIN

HSA scores victory over workplace harassment

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HSA has won a significant Workers' Compensation Board appeal, marking one of the first times the WCB has recognized psychological disability caused by workplace harassment for union activity.

The WCB initially rejected the claim of the former HSA chief steward, who developed a disabling depression due to extensive and prolonged personal harassment by the executive director of the small facility where she worked.

The executive director harassed this worker solely because she was in the position of chief steward.

The resulting depression left the chief steward unable to work for more than three years. HSA successfully appealed the decision; the Workers Compensation Review Board has ruled her claim should be accepted, and that she should be compensated.

Carol Riviere, who handles WCB appeals for HSA, said this is a strong and important decision not only for HSA members, but for all unionized workers in the province.

"In an ideal world, union activists wouldn't be harassed or targeted by employers. Unfortunately, sometimes, speaking up for the rights of your co-workers means you then face hostility from employers," Riviere said.

"This decision helps demonstrate that HSA will stand behind our stewards in every possible way. It's also a useful decision because it provides a very thorough analysis of the case law dealing with when WCB will accept psychological disability caused by workplace harassment. The decision also makes clear that such a claim shouldn't be rejected just because a worker's union activities are the reason she's being harassed."

In this case, the employee was a paramedical professional who was well respected in her professional field, and who had several years of excellent working relationships with both her colleagues and the management. This changed as soon as she agreed to become chief steward.

The new chief steward suddenly found that her calls were being screened, she was being denied education leave, and denied the right to sit on professional committees she had served on previously - which she felt affected her professional reputation. Worse, the executive director started phoning her various clients and

agencies to check that she was keeping appointments, and placing disciplinary letters on her file that attacked her personally.

During this time, the chief steward continued to represent her fellow workers, even though 28 of 35 employees quit over two and a half years.

During this period HSA filed a harassment grievance against the employer, and took the case to arbitration.

The arbitrator directed an investigation, which found that the facility was a "workplace in crisis." The chief steward was awarded several months medical leave for severe depression. However, she was unable to return to work, even after receiving treatment for her condition.

"In the past, the WCB has been very reluctant to accept a claim for psychological injury unless the psychological disability was precipitated by a physical injury," Riviere explained. "For example, WCB has historically been more willing to accept a claim of depression caused by an amputation, or other serious physical injury."

"As far as we were aware, this is the first successful claim for depression caused by harassment of a worker solely because she was a union activist," she said.

With this win at the Workers Compensation Review Board, the member should receive compensation for years of wage loss, and assessment for rehabilitation or assistance to return to work. She may also receive compensation or pension for continuing or permanent impairment.

"The member showed a lot of courage in dealing with what she was subjected to, because she thought standing up for her co-workers was the right thing to do," Riviere said.

"This member worked very hard for the union, and for her colleagues. I'm pleased that HSA was able to get compensation for her."

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