

New rules target harassment and bullying in BC

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November 1 is the day new workplace rules regarding harassment and bullying come into effect in British Columbia.

This is the second part of a change in workers' compensation legislation brought about with the introduction of Bill 14 in 2011.

The first change dealt with the issue of compensation for mental disorders. Since July 1, 2012, an expanded definition states that a worker is entitled to compensation where a mental disorder is a reaction to:

- "(i) one or more traumatic events arising out of and in the course of a worker's employment, or
- (ii) a significant work-related stressor, including bullying or harassment, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment".

In order to receive compensation in either of the above situations, a worker's mental disorder must be diagnosed by a psychologist or psychiatrist as a condition described in the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM) and not be caused by a decision of the worker's employer relating to the worker's employment. It will often be difficult to prove that an illness is a mental disorder brought on by conditions in the workplace, so it will be very important for anyone experiencing work related stressors such as bullying or harassment to document any occurrence that may be a contributing factor and seek medical advice at the earliest opportunity.

The second change broadens the definition of workplace bullying or harassment and redefines responsibilities for those dealing with complaints of bullying or harassment.

Under the new WorkSafeBC policies coming into effect in the fall, bullying and harassment are defined as "any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated".

The definition also specifically excludes any "reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment". It is likely there will be disagreements between workers and employers about what is considered "reasonable action", but over time - through arbitration awards and workers' compensation decisions - that will be clarified.

Sections 115, 116 and 117 of the Workers Compensation Act set out the general duties of employers, workers, and supervisors respectively. The new policies will clarify the obligations of employers, workers, and supervisors regarding preventing, where possible, or otherwise minimizing workplace bullying and harassment. New tools for assisting workers and employers in dealing with harassment and bullying complaints are being developed by WorkSafeBC and will be available in the fall when these latest changes come into effect.

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