

e2r Alert!

Get a Whiff of This! The Scoop on Scent Sensitivity in the Workplace

Jonny's morning routine involves a heavy application of cologne before heading to work. Justine insists on spraying air freshener in her cubicle at work. Tammy is addicted to scented hand lotion and she applies it several times throughout the work day. Although these scenarios, at first glance, appear harmless, they are posing increasing problems in the workplace that employers are now required to address.

Employees who suffer from environmental sensitivities can experience a wide variety of adverse reactions when exposed to the chemicals contained in fragrances. These reactions can range from headaches to heart palpitations and can affect an employee's ability to work productively. Recently, a U.S. case was heard in which an employee who suffered from a severe chemical allergy alleged she experienced migraine headaches, nausea and chest tightness resulting from exposure to perfume, a plug-in air freshener and potpourri in the workplace. The court concluded that the employee had not been sufficiently accommodated by her employer and she was awarded \$100,000.00 in damages!

In response to the growing awareness regarding this health issue, on May 11, 2010, Bill 64, the *Occupational Health and Safety Amendment Act (Scented Products)*, was introduced to the Ontario Provincial Legislature. Although it has not yet received royal assent, if successful, it will amend Ontario's *Occupational Health and Safety Act* to require employers to prepare and review annually, in consultation with workers, written policies on the use of scented products in the workplace. Although Bill 64 does not require employers to adopt a specific scent policy (i.e. scent-free workplace), it will ensure that all employers in Ontario address this issue with employees.

In Canada, environmental sensitivity can be considered a disability under human rights laws, triggering an employers' duty to accommodate the needs of an environmentally sensitive employee in the workplace. As such, if an employee identifies to their employer that they suffer from environmental sensitivities, ignoring the issue could possibly give rise to a human rights complaint and result in a significant award of damages against the employer as described in the U.S. case above.

In light of this new workplace reality, we recommend employers consider the following. In the event of an employee complaint, the employer should meet with the employee to address their complaints and give serious consideration to any requests for accommodation. Employers may also want to consider developing a scent-free workplace policy and posting it in the workplace. Employers should educate employees about the scent-free workplace policy and the health problems faced by individuals who suffer from environmental sensitivities if exposed to fragrance. Finally, employers may want to consider incorporating a scent policy into their company handbook. The Service Providers at e2r Solutions would be happy to assist in creating and implementing these policies.

Please contact e2r Solutions® should you have any questions regarding the foregoing.

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