

Another Bad Consequence of Harassment

In 2012, the Nova Scotia Workers' Compensation Board denied a man's claim for benefits stating that his workplace injury did not qualify for benefits. An openly gay firefighter with the Department of National Defence in Halifax, the worker was harassed by his co-workers on account of his sexual orientation. Over a period of time he was insulted, threatened with physical assault, and physically assaulted. The worker also discovered that his breathing apparatus, part of his personal protective equipment, had been tampered with to allow outside air, gases and smoke to enter his face mask directly in the event of a fire.

Many workers' compensation boards across the country have identified that a worker may be entitled to benefits for traumatic mental stress that is an acute reaction to a sudden and unexpected traumatic event arising out of employment. It is typically less clear, however, whether benefits are available as a result of multiple events. In Nova Scotia, however, its Workers' Compensation Board ("Board") introduced a policy that permits employees to claim benefits for psychological injuries not only when they are due to an acute reaction to a single traumatic event, but the effects of multiple events over time.

On appeal from the decision of the Board, he was able to successfully demonstrate through medical evidence that an objective person would perceive actual or a serious threat to his physical integrity.

This decision sends a clear reminder to employers that the characterization of workplace injuries that are compensable for workers' compensation benefits is broader than ever. It has also shown another reason why workplace harassment policies are crucial in organizations.

Please contact e2r® if you have any questions or concerns regarding your current policies or if you do not have a current policy in place.