

## ***A Slap (or Three) in the Face - Ignore a Harassment Claim and Pay the Price!!***

In *Bassanese v German Canadian News Company Limited et al*, an employer learned the hard way that ignoring a complaint of workplace harassment can result in serious financial consequences.

The employee in this case was a 74-year-old clerk with 19 years of service. She was repeatedly verbally harassed by a male co-worker, including him screaming at her and telling her that she was an idiot and that she should be fired. She filed a complaint with the President of the company describing the pattern of harassment and asking him to step in and ensure it did not happen again. After the company failed to take steps to address her complaint, the plaintiff followed up on two occasions to no avail.

Approximately one month after filing her complaint of harassment, Ms. Bassanese was slapped across the face three times by her harasser. She complained to the company and filed a police report. The same day she was terminated without notice or compensation in lieu.

The plaintiff brought a claim against the company and the alleged harasser. While the claim against the alleged harasser was settled out of court, the Court found in the employee's favour and awarded her damages totalling almost \$200k:

- \$15,000 for assault and battery based on the company's vicarious liability;
- \$50,000 for aggregated damages;
- 19 months of pay in lieu of notice; and
- 10% of salary in lieu of benefits.

With respect to the award of aggravated damages, the Court found that the company had ignored the employee's complaint and neglected to investigate her complaint or take steps to address the harassment. The Court held that the company's failure to meaningfully act in response to the employee's complaint caused the employee heightened

anxiety and frustration and permitted the work environment to become more toxic. As such, the company's failure to investigate the complaint warranted aggravated damages. The Court noted that aggravated damages are designed to compensate for the "additional harm caused to the plaintiff's feelings by reprehensible or outrageous conduct on the part of the defendant."

**Key Takeaway:** Employers must conduct a timely and thorough investigation into alleged incidents of workplace harassment and violence. Failing to act may result in an employer being ordered to pay aggravated damages, or even being held vicariously liable\* for the actions of an employee harasser.

If you have any questions regarding this or any other claims of harassment by employees, please do not hesitate to reach out to speak with an e2r® advisor.

*\*Vicarious liability: imposing liability on employers for the wrongdoings of their employees.*