

Introduction

Managing the workplace is tough. Countless things can go wrong and people, unlike machines, are prone to say the wrong thing or have their words misinterpreted. However, when it comes to issues of human rights-characteristics such as sex and race that we can't change, or religion and marital status that we aren't expected to change-you may find yourself with a disaster on your hands. If you have a bad day and yell at someone, you can always correct that. An apology will go a long way. However, make a disparaging comment about a person's nationality, skin colour, sex, or religion, and it may take a lot more than an apology to get that person back to respecting you and your working relationship. That's because basic human rights, even the simple comments at work, go to the core of each one of us. When employees and managers cross over that line, whether in a subtle or in-your-face manner, staff loyalty takes a dive. At best, you might continue to employ distressed employees, but at worst, they will bolt the first chance they get. And often they talk, usually quietly, sometimes loudly, to friends and acquaintances.

This book is designed to help you, the manager and supervisor, manage the human rights process a little more easily.

This book has no intention of making people more progressive or liberal in their attitudes. It is not designed to convince leaders to change the way they think. It is designed to help those who are in the tricky art of managing people and workplaces in understanding human rights issues and preventing human rights disasters. *Yeah, right*, I can hear some of you thinking. *This book is about political correctness, which is total B.S.* Think whatever you want, but don't ignore the message just because you disagree with it. In other words, don't shoot the messenger. I give you this free advice: Hear me out now, or pay other lawyers and specialists to get you out of trouble later. I want to help you avoid the mistakes that can get your rear caught in the human rights grinder. Look at each chapter and decide if your workplace is in line with the issues it covers: the laws, tribunal or court decisions, and overall logic. If you, as a savvy manager handle human rights issues *before* they become a problem, or deal with them at the first sign of trouble, it doesn't matter whether you yourself subscribe to so-called political correctness. Just know this: Ignoring human rights problems at work can land you in hot water, can bring a case against you either through the human rights process or the courts. When that happens, win or lose, you're wasting valuable time and resources dealing with public relations and plummeting workplace morale.

Then again, *not* suffering bad P.R. or a human rights case is no guarantee that all is well. Many an employee who feels discriminated against is loathe to file a complaint, but the result is nearly as deadly: high turnover, low productivity, a tainted reputation in the talent pool, and a snowball's chance in hell of securing an employer-of-choice designation. It doesn't matter whether you have two or 2,000 employees.

Do you have the right to run your business as you want? Yes...to a point. In Canada, employees, customers, and individuals get basic human rights protection from provincial, territorial and federal human rights legislation. How important are these pieces of law? Human rights

legislation is often referred to as quasi-constitutional, which means that if any piece of legislation comes into conflict with human rights legislation, the human rights law will prevail. Even if a province or other jurisdiction appears to have watered down human rights legislation, don't be fooled; rights are protected by equality provisions in the constitution's Charter of Rights and Freedoms.

Some people say the human rights and the legal pendulums have swung too far. They believe it's poised to swing back, and this will give them a break. Not only do I see no indication of a reversal; I see plenty of signs that our courts and tribunals will push the pendulum further and further towards supporting individuals seeking to assert their human rights. The courts, through our constitution's Charter of Rights and Freedoms, are trumpeting a clear and consistent message: *If you do harm, you will pay*. While the message might not always be obvious from a criminal law perspective, it is becoming more obvious from a civil and human rights perspective. Who'd have thought that an entire religious diocese could cease to exist paying for past abuses? Who envisioned that a new-age human rights principle of pay equity would end up costing businesses and governments millions and billions of dollars in back pay?

Such cases have occurred and will continue occurring until the courts and tribunals believe Canada has achieved better equality of opportunity and results. For better or for worse, the businesses that come to grips with this, and start adjusting work practices and client procedures accordingly, will thrive. Sometimes the results aren't tangible, unless compared to a business competitor who has attracted banner headlines for putting his foot in his mouth or for paying a judgement award for not keeping up with the times. Suddenly, business positives are defined as an ability to keep one's eyes on the bottom line instead of being sucked into the vortex of a human rights complaint.

In the book I have given you 101 tips. I've tried my best to lay out the tips prior to the point I want you to get.

Some of the tips are straightforward and others are more complex. I've tried my best to keep the legalese out of the process, but we can't avoid the law. I think it's easy to say the law drives the human rights process because there are so many commissions, tribunals, and courts that give us guidance and sometimes harsh words. However, what really drives this process is the Canadian sensibility, which says that respecting and upholding basic human rights is a major part of what makes us one of the most desirable places to live. When a workplace is missing that sensibility, it's rarely a place where people want to stay or clients want to support.

Don't skip Chapter 2: *Are you Accommodating?* This growing area of judge-made human rights law may be perplexing, frustrating, and ever-evolving, but for the sake of your business, you want to get some kind of grip on it. It continues to perplex scholars, lawyers, judges, managers and human rights practitioners, yet I hope I've laid it out in a way that will help you better understand it, thereby helping your business.

In most examples, I use the real names and real cases available to the public (unless I gathered additional information from an interview). This approach is not meant to hurt anyone. Most people are trying their best—even if they end up with disastrous consequences. I thought about using fictitious examples, but I realized it wouldn't work. You need to hear about real examples and learn from real mistakes.

Throughout this book I make reference to “business.” If your business is a private company—big or small, subject to free market forces or not—this book applies to you. If you work for the government, a quasi-public body, or a non-profit organization, this book also applies to you. Why? Because your “business” involves meeting goals within a defined budget. There's advice here for your internal business (dealing with employees), as well as for your external business (dealing with customers and clients). Just as human rights legislation applies to all workplaces—private, public and non-profit—so does this book.