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When an Employee Meets With Some Discrimination, This Employee Wants Someone Fired (for example) and the Employer Doesn't Think Firing is a Reasonable Response

There are many workplace challenges facing Canadians. From observations while working in the field of workplace and community human rights over many years, Stephen Hammond has chosen what he considers the top 10. This video transcript is intended to start a dialogue. If you feel it may help your workplace or your association, please use it. Print out the text, have a discussion, and try to come to resolutions that can be helpful to your group. The best way to deal with workplace challenges is to talk about them in a respectful way. If you would like to access the video that goes with the transcript, it can be purchased at HumanRightsTrainingStore.com

Many employers face the dilemma of protecting an employee who is discriminated or harassed while ensuring any “punishment” is done within reason and the law. Sometimes it’s a balancing act and not an easy one. If an employee thinks there should be more severe discipline, consider some common sense approaches that might help.

Workplace human rights protection is loaded with “reasonableness.” If a reasonable person would find a comment inappropriate, or unwelcome and then it causes some harm, an employer must put a stop to it and perhaps correct any problems that came from it. Responses must also be reasonable, or an employer can get into legal troubles for going too far. While discrimination isn’t tolerated, how you deal with issues can be a balance.

Let’s say for example an employee (we’ll call her Anne) is being given the cold shoulder by other employees because another employee (we’ll call him Bob) has said less than kind things about her religion or ethnic heritage. Through one way or another, Anne finds out about these comments and it becomes clear that Bob in fact said these things. It doesn’t take much of an investigation because while Bob feels a bit stupid for making the comments, he didn’t deny them. He was forthcoming with all the information, but when asked, he always told the truth. It doesn’t always go that smoothly, but let’s say it happened that way.

Let’s say that you’re the supervisor for both Anne and Bob. After a talk with Human Resources, you conclude that Bob will get a formal disciplinary letter on his file. It makes it very clear that if he does anything like this again to Anne, or any other employee, he will face further discipline, such as a suspension without pay or termination of employment. You and H.R. came to this

conclusion because Bob never lied and in the end he felt very stupid for what he did. You concluded that he didn't fully realize the impact his comments were having and he easily apologized to Anne.

The problem is that Anne thinks that's not enough. She says it's a clear act of discrimination and he must be fired. You get a sense that if you don't fire Bob, she may appeal your decision to the Vice President in charge and/or get a lawyer.

It's at times like this that you want to make sure you've made the right decision. Not because the squeaky wheel gets the oil, but because you want to make sure you didn't make a hasty decision and taking another look might save you headaches in the future.

Here's what I suggest you do:

Listen to Anne. I mean really listen to her. I'm sure you did before, because you would have asked her what she wanted when you first found out about this. Perhaps she would have accepted it, but she felt Bob's apology wasn't sincere. Or maybe you didn't keep her in the loop and she feels slighted. These are valid concerns and you'll want to respond.

Discuss the process. Let Anne know that you've taken everything into consideration, and if there is new information, you'll deal with things in the future. Her right to a discrimination-free workplace is first and foremost. But Bob's rights also include taking reasonable measures to deal with his situation.

Talk about the future. Let Anne know that you expect a better workplace because of her bringing this forward and that she was in the right. Bob was clearly in the wrong. If anyone treats her badly or differently, you want to hear about it.

Balancing interests isn't always easy, but according to Canadian law and good employee relations, it must be done. There will be times where a problem turns out to be a misunderstanding. Other times it is so outrageous that outright firing is the only answer. And there's lots in-between. Be reasonable.

What do you think?

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