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Sexual Violence—A First Ruling on the Subject!

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Summary

Through a landmark decision in which, thanks to various injunctions, an employer was able to protect its employees from the problematic behaviour of a former employee, the authors explore the new concept of “sexual violence” as well as the new obligation of employers to protect their employees from any form of third-party harassment, both of which were introduced in 2024 in the Act respecting labour standards.

INTRODUCTION

In fall 2024, a large company operating in the food sector achieved a major legal victory in protecting the health and safety of its employees.¹ Thanks to a permanent injunction, it was able to protect its workers from, among other things, sexual violence perpetrated by a former employee.

I– HARASSMENT ON SOCIAL NETWORKS AND INAPPROPRIATE BEHAVIOUR

The former employee, feeling he had been unfairly dismissed, began contacting plant employees and members of the management team on Facebook. He would send unsolicited messages accompanied by an explicit photo. What's more, some of the content posted on his Facebook profile suggested the possibility of physical attacks on employees, fuelling fears within the company.

An initial 10-day provisional injunction was granted to prevent the man from communicating with certain people or coming within 50 metres of the plant's offices. But it wasn't enough to stop him from committing further offences, as he continued to post increasingly disturbing messages targeting certain employees on Facebook.

In light of this escalation, a stronger, interlocutory injunction was ordered. The injunction required the man to remove his Facebook posts and cease all communications with employees who wanted no further contact, and authorized the police to use whatever force was necessary to enforce the injunction, in addition to reiterating the main findings of the first injunction. This injunction had a more dissuasive effect.

Finally, a permanent injunction was ordered, confirming the measures of the interlocutory injunction and closing the case.

Among the various conclusions of the decision handed down in connection with the permanent injunction, the man was ordered to cease all communications, by any means whatsoever, with the company's employees or leaders who had expressed or would later express a desire for him to stop contacting them. In addition, the injunction ordered the former employee not to come within 50 metres of the company's facilities.

II– LEGAL RECOGNITION OF SEXUAL AND PSYCHOLOGICAL VIOLENCE

Thanks to this series of injunctions (provisional, interlocutory and permanent), the court recognized that the former employee's behaviour, namely sending an intimate image to several employees, constituted a form of sexual violence. Other forms of behaviour he exhibited were also deemed to have potentially caused harm to the psychological and physical health of the employees involved. Moreover, the threats he made on social networks were found to constitute harassment of the company and its employees, posing a risk of serious and irreparable harm. In fact, the health of the employees, should it be affected, cannot be compensated for by monetary damages. The court was therefore able to take action to protect the health and safety of the employees.

III– AN IMPORTANT LEGAL PRECEDENT

This decision is a first in terms of legal recognition of sexual violence, newly defined in the *Act respecting occupational health and safety*² (AROH) as of March 27, 2024, further to the adoption of the *Act to prevent and fight psychological harassment and sexual violence in the workplace*.³ This new definition marks a major step forward in the protection of employee health and safety in the workplace.

Note that the burden of proof for sexual violence is lower than the burden of proof for psychological or sexual harassment.

Psychological harassment is defined in section [81.18](#) of the *Act respecting labour standards*⁴ (ARLS) as:

“[...] any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects an employee’s dignity or psychological or physical integrity and that results in a harmful working environment for the employee. For greater certainty, psychological harassment includes such behaviour in the form of such verbal comments, actions or gestures of a sexual nature.

A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”

Whereas sexual violence is defined in section [1](#) of the AROH as:

*“[...] any form of violence targeting sexuality or **any other misconduct, including unwanted gestures, practices, comments, behaviours or attitudes with sexual connotations, whether they occur once or repeatedly, including violence relating to sexual and gender harassment.**”*

Therefore, while inappropriate behaviour may be considered sexual violence, it doesn’t always fall within the definition of harassment, even though the two are often interrelated. For example, a joke of a sexual nature directed at a person, uttered once, could be considered sexual violence within the meaning of the AROH, without constituting harassment within the meaning of the ARLS.

IV- EMPLOYER OBLIGATIONS

In accordance with the AROH, employers have a duty to protect the health and safety of their employees.⁵ This responsibility includes putting measures in place to protect workers who are exposed to situations of psychological, physical or sexual violence and, when necessary, to put a stop to such harmful behaviour.

The employer must also provide a healthy and respectful work environment that’s free from all forms of harassment. Since September 2024, employers have been required to put an end to any form of harassment from “any person,” which includes not only company employees and managers, but also third parties.

The injunction obtained against an individual from outside the organization clearly highlights the legislator’s desire to protect employees, whatever the status of the aggressor. The *Therrien* case clearly demonstrates this desire—the man was considered a third party to the company under the ARLS, as he no longer worked there.

In light of recent amendments to the ARLS, it’s important to keep this tool in mind when the actions of a third party pose a risk to employee health and safety. Depending on the circumstances, it may be appropriate for an employer to seek an injunction.

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[1.](#) *Canada Bread Bakery Ltd. v. Therrien*, 2024 QCCS 4047, [EYB 2024-556464](#).

[2.](#) CQLR c S-2.1.

[3.](#) SQ 2024, c 4.

[4.](#) CQLR c N-1.1.

[5.](#) See s. [51](#) of the AROH. Filing date: April 29, 2025.