

# POISONED WORKPLACE LEADS TO \$25,000 IN DAMAGES

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In a recent decision,<sup>[1]</sup> the Human Rights Tribunal of Ontario (the “Tribunal”) awarded an Applicant \$25,000 in damages for injury to dignity, feelings, and self-respect, as well as damages for lost wages, after her employment was terminated without cause. Here is what employers need to know about when the Tribunal can find comments amount to discrimination and a poisoned workplace.

## Background

The Applicant was a 53-year-old executive assistant hired by IMS Incorporated to support its CEO. Her employment was terminated just one month after being hired for being – in the employer’s words – “too senior” for the job and “not a right fit”. She filed an application with the Tribunal alleging that the termination of her employment was discriminatory due to her age and sex and that she had been subjected to a toxic work environment.

At the hearing, the Applicant testified to various instances of harassing and discriminatory comments made by the CEO, directed at both the Applicant and other female employees. Such comments included the CEO looking the Applicant up and down and saying, “I wonder what you will look like in ten years”, referring to other female employees as “little girls”, and asking female employees about their boyfriends and if they would date him. The CEO also frequently lost his temper at both the Applicant and other employees.

When the Applicant raised concerns about comments and behaviour that made her feel discriminated against, the company did not investigate. Instead, the external human resources person indicated to the Applicant, “let’s not look at this as a problem, it’s the way it is...he runs the show”.

The Applicant was dismissed shortly after completing one month of service, with the termination letter citing her being “too senior” for the role as the reason for dismissal. Her dismissal came just two days after the CEO had told her he was pleased with her work and would be rewarding her with a pay increase.

Both the employer’s CEO and COO testified at the hearing and attempted to frame the reasons for the Applicant’s dismissal as being her poor fit within the corporate culture of a small company and performance concerns, as the employer alleged that the Applicant had a practice of “isolating” the CEO from the other staff.

## The Decision

The Tribunal found the CEO and COO testimonies lacked credibility, and were inconsistent with the praise to the Applicant regarding her job performance and the promise of a raise just two days before her dismissal. The Tribunal also found that both her age and sex were factors the employer considered when deciding she was “not the right fit”. Discriminatory comments the company made about the Applicant were that she was “bossy”, references to her “assertiveness”, had a “senior” level of experience, and was “motherly”.

The Tribunal also found that the Applicant was subject to a poisoned work environment caused by the CEO’s sexually charged comments and frequent angry outbursts. The Tribunal found there was a clear “culture of intimidation” and an atmosphere at the workplace that was so intolerable it formed a poisoned work environment.

Ultimately, the employer was ordered to pay the Applicant \$13,000 for lost wages and \$25,000 for injury to dignity, feelings, and self-respect. These amounts were subject to pre-and-post judgement interest, which was significant given that the Application commenced in June 2019 and a decision was not rendered until December 2024.

## Key Takeaways

This case is a reminder to employers of the risks of dismissing an employee for reasons associated with “culture” or “fit”, even while an employee is in their probationary period. Such poor justifications expose employers to human rights claims, which can carry significant financial and reputational consequences. While the Applicant’s lost wages claim in this case were relatively modest (she found new employment just two months after her dismissal), the *Human Rights Code* provides for broad remedies for employees dismissed for discriminatory reasons, including reinstatement with backpay. Had the Applicant been unable to find new employment so quickly, the employer could have been required to pay many more months or years of backpay.

While employers are generally not required to provide employees with detailed reasons for their dismissal at the time of termination, employers should always be prepared to provide those reasons if asked. Having a cohesive and objective explanation for a dismissal will help reduce the risks of a human rights claim. This is particularly true for employees who made workplace complaints, recently returned from a leave of absence, or are being accommodated in the workplace. Simply telling an employee that they are not the right “fit” or that they aren’t right for the “workplace culture” will inevitably increase the likelihood of disputes, litigation, and increased costs.

Finally, the Tribunal’s decision underscores the importance of conducting a thorough and impartial

investigation once allegations of discrimination or harassment have been made. Employers must ensure to take complaints seriously and conduct appropriate investigations. Employers should also ensure that their discrimination and harassment policies and complaint procedures are up-to-date and well known to all employees.

[1] [Tenthorey v IMS Incorporated](#), 2024 HRTO 1740 (CanLII)

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### **A Cautionary Note**

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