

Discrimination Case Studies

Group 2 (Cases 4, 5, and 6) – Jim, Mitch, and Teresa

Case Study 4 – Maria

Summary

This case study describes a scenario where a male (Tony) was hired by a company in 2003 but then began transitioning to a female (Maria) in 2008. Maria began sex reassignment procedures and started hormone treatments. Maria has said that she was harassed at work, experienced a toxic work environment, and was terminated from her role. Maria has stated that her lead hand (Gerry) had been a main source of harassment for her. The company denies allegations of harassment and has stated that Maria was terminated because of her attitude, workplace conflicts, and insubordination. The company has also stated that they treated and considered Maria like male until they received medical/legal documentation that she was in, in fact, a female.

Human Rights Response

1. It is difficult to determine the exact details of the harassment incident between Maria and Gerry, but it is clear that Maria believes that the incident occurred while the employer denies it. According to the Ontario Human Rights, employees have the right to equal treatment and respect without discrimination or harassment based on gender identity or gender expression. The company policy that is particularly concerning is the fact that Maria was still referred to Tony (and treated as a male) until medical and legal documentation was provided to indicate that Maria was, in fact, female. That policy ought to be reviewed.
2. The employer states that Maria was fired due to attitude, being involved in workplace conflict, and insubordination. Considering the circumstances of Maria transitioning, I do not believe that these reasons are the true reasons as to why Maria was fired.
3. It is difficult to ascertain exactly what Maria would want because she was discriminated against. However, I believe she ought to receive some sort of severance/settlement/compensation package for the pain and suffering. She should also be offered some counselling to deal with the aftermath.

Case Study 5 – Dante

Summary

A black male (Dante) was reluctantly hired at a local car wash. Dante received minimal training on how to use the car wash equipment. Dante's colleagues and boss had also been exchanging racial jokes in the presence of Dante. His boss has also claimed that

all black people were responsible for increased violence in the local community which encouraged all other staff members to continue cracking racial jokes. This discouraged Dante significantly. Dante was abruptly fired because the station he was working on broke down after he had finished using the equipment and another colleague had subsequently starting using it. Dante insisted that the equipment failure was not his fault but he was still terminated.

Human Rights Response

1. In my opinion, I believe that the manager did not have sufficient grounds to fire Dante. There was no way the manager could actually link Dante to the breaking down of the equipment. Dante had gone for break and another employee had taken over Dante's station. The equipment broke after Dante stopped working at that station.
2. I believe that a tribunal would take the following into consideration:
 - a. The reluctance to hire Dante in the first place
 - b. The lack of training Dante received
 - c. Coworkers and boss cracking ethnic jokes
 - d. No process established to determine what happened
 - e. Stressful environment for Dante to work in (harassment and discriminatory practices according to the Ontario Human Rights Code)

Case Study 6 – Pick Your Own

Summary

In October 2023, the Saskatchewan government invoked the notwithstanding clause to pass Bill 137 – Parents' Bill of Rights. All educational staff must now seek parental/guardian consent for students 16 and under if the student wants education works to use a different name and/or pronoun in the school environment. The policy's intent states that education is a shared responsibility between educational staff and parents. Thus, the Bill will help reinforce important relationships. The policy also states that this will help create a more welcoming classroom environment for students.

Bill 137 also states that students have every opportunity to freely express who they are; they support students that wish to have their names and/or pronouns change to align with their gender identity, and; parents have an important role in protecting/supporting children as they grow and develop. The Saskatchewan Teachers' Federation (STF) states that educational and mental health staff were not consulted in the development of this bill. The Saskatchewan Human Rights Commission, Heather Kuttai, resigned from her post in protest of the bill.

A Saskatchewan-based advocate group is legally challenging the Saskatchewan Party's decision to invoke the notwithstanding clause to pass the new law. The group

believes that the provincial government has restricted the rights of gender-diverse youth who are entitled to a safe educational environment. Specifically, the group believes that the new law infringes upon section 12 of the Charter of Rights and Freedoms which protects people from cruel and unusual treatment or punishment. In response, the government rallied provincial courts urging them to drop the challenge because the notwithstanding clause was used and no Charter rights were violated. However, the courts believe that there is no true basis to deny the advocate group the opportunity to argue against the government.

Note – this is a developing scenario with clear camps of people. Many teachers and education workers are alarmed by this bill and some parents as well as government believe the bill is a great way to re-establish power in schools. There are no known solutions yet and I do not believe it has been heard yet by the provincial courts, but I believe it will make headlines eventually.

Questions to consider:

1. Has the government violated the Charter of Rights and Freedoms?
2. Is the school environment now a welcoming and safe place for gender-diverse youth?
3. Was the government fully justified in using the notwithstanding clause to pass Bill 137?
4. How should teachers proceed? Go against the law of the land or the ethics of the profession?